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## Senate

The Senate met at 1 p.m. and was called to order by the Hon. ROBERT F. BENNETT, a Senator from the State of Utah.

### PRAYER

The Chaplain, ADM Barry C. Black, offered the following prayer:

Let us pray.  
O God, who gives us songs in the night, we thank You for Your promises that cannot fail. You are a God of wonders and Your mercies are new every morning. Lord, You have worked in our Nation's history, doing for us what we could not accomplish with our own strength. Help us never to fear the future because we can remember how You have led us in the past. Lead our Senators today like a shepherd cares for a flock. Lord, let peace radiate in our world on wings of faith, hope, and love. We pray this in Your strong name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable ROBERT F. BENNETT led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 21, 2003.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT F. BENNETT, a Senator from the State of Utah, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. BENNETT thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period of morning business until the hour of 1:30, with Senators permitted to speak therein for up to 10 minutes each.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business until 1:30 p.m. At 1:30, the Senate will begin consideration of the Homeland Security appropriations bill. As I mentioned—I think it was Thursday night of last week—this appropriations bill will for the first time be considered on this floor. So this is a new initiative for us. I look forward to handling that expeditiously this week in a thoughtful and deliberate way. These are very important issues before this body.

I announced previously we will not have rollcall votes today. Having said that, I encourage Members to come to the floor and proceed with their opening statements on the Homeland Security bill. Any amendment that is offered today can be debated throughout the day with a vote to occur during Tuesday's session at a time determined later.

Once again, I encourage Members who desire to offer amendments to the Homeland Security bill to contact Senator COCHRAN or the ranking member. I hope we can pass this legislation early this week and then continue with the other appropriations bills. With only 2 weeks remaining prior to the scheduled recess, we need to address as many of the appropriations bills as possible this week. As previously stated, during the last week, which is next week, we will be addressing and completing action on the Energy bill.

Last week, I discussed with the other side of the aisle the possibility of having a filing deadline for amendments to the Energy bill. I continue to hope that the objection on the Democratic side will be lifted and that we can allow Chairman DOMENICI and the ranking member to look at the legislative language of these amendments.

We first brought Energy to the floor now several months ago. It was May 6. We have had 12 days on the floor. We have a list of amendments by title. Now is the time to narrow that list, to look at the legislative language.

One of the purposes of setting aside this week at the end of this month so far in advance was that those actions and deliberations could be taken by our colleagues so we could best use the time on the floor of the Senate in a focused way and in a way that respects people's time broadly but allows adequate discussion, debate, amendment, and completion of this bill.

I do want to take a moment to congratulate the chairman of the Appropriations Committee. Last week, he made significant progress on the appropriations process, but obviously there is a lot of work to be done. I am confident that Senator STEVENS will continue along this road. He is clearly up to the task and will complete these bills in a timely fashion.

In addition to the three appropriations bills that the Senate passed last week, we were also able to continue to

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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work on a number of other important issues. Senator MCCONNELL helped in ensuring that the Senate passed H.R. 2330, the Burma sanctions bill. That bill has now been cleared for the President's signature.

The Senate also passed S. 764, Senator CAMPBELL's bill to extend the authority for the Bulletproof Vest Partnership Grant Program.

The Senate was also able to act on a number of Energy Committee bills, including S. 470, which extended the authority for the construction of a memorial for Martin Luther King, Jr.

I look forward to a productive couple of weeks before our recess as we address the appropriations bills, energy bills, and other legislative and executive items that can be cleared.

### SPAM

Mr. FRIST. Mr. President, I would like to move to another subject, one that is brought to my attention on a daily basis. In fact, every time I turn on my computer, it is there, staring me in the face. It is this whole issue of spam.

One of my sons had not answered his e-mails; he had been away, in Bartlett, back in Tennessee. He came and turned his computer on and there were 300 e-mails waiting for him. He said only 40 of the 300 e-mails—this was just last night—40 of the 300 e-mails were e-mails actually sent to him by somebody he knew in the sort of discussion that we know e-mail is all about; that is, to stay in touch with family and friends and communicate effectively. The other approximately 250 or 260 e-mails were unsolicited e-mails that had been sent to him.

It reminded me of a letter I received from a constituent, a 73-year-old grandmother from Vonore, TN. That letter reads as follows:

DEAR SENATOR FRIST: My niece gave me a computer in 2001. It has been a delight to e-mail. At age 73, there is a tendency to feel the world has moved ahead of you, and no one wants to be left behind. Now I wonder if left behind would not be better.

I started getting e-mail titles that horrified me. I have been unable to find out where it comes from or how to stop it. I communicated with my niece, who is Executive Assistant to the only female Judge in Alabama, and she tells me they also have had the experience. She sent me an article from the Mobile paper that would indicate many people are becoming outraged at the practice. I urge you to be one of them.

Mary's letter continues. There are two more paragraphs. Third paragraph:

I do understand the need for free speech, but this goes way beyond the bounds of decency. I am appalled to think our young people are subjected to such an onslaught of trash. There is no way they can be protected at this point if a grandmother, whose e-mail address clearly identifies her as such, is not.

If a child buys alcohol, tobacco, Playboy or Hustler at the local market, it is a crime. Yet in their own home they are not being protected. Could you craft a law that would prosecute anyone who sent unsolicited indecent or vulgar mail into our homes?—Sincerely, Mary K. Barnwell.

This letter is just one of many that I could have read which constituents have sent me. I mentioned my own son's experience, experience we all have had, the inconvenience, and the offensive nature with which these e-mails are sent and received.

The answer to Mary's question clearly is, yes; we can craft a law that will punish individuals who flood our homes with indecent, unsolicited, and endless streams of spam. International Magazine reports in its most current issue that the millions of spam e-mails that are clogging up our computers are sent out by only a handful of individuals. These spammers call e-mail addresses from chat rooms, from Web pages, from news groups, from message boards, and from e-mail service directories to set up their spamming operations. They even sent out e-mails to random number and letter combinations to look for hits. When they get a hit, it is a matter of minutes before the spam starts pouring in.

Spammers, as we all know, often deliberately target children. They capture e-mail addresses from sites that are typically used by kids, and then they inundate these young victims with offers of free toys, of video games, and contests. But when the child clicks to enter, they are again rerouted to a 900-number modem connection. A dialer is automatically loaded onto the child's system, and unbeknownst to the child they are racking up \$3.99 per minute until they sign off. You can imagine the parents' shock and anger when that phone bill arrives.

In other instances, the child might click on the free toy offer. They might get rerouted through a pornography site. When they try to exit, pornography screens pop up to block their retreat.

Some spammers send e-mail in the old-fashioned way. The perpetrator sends an enticing e-mail—an offer, for example, for action figures. The hook? The child has to enter a credit card to get the toy. Mom and dad's credit card information goes in and thousands of credit card dollars go out.

As we all know, as parents it is hard to keep close tabs on a child's Internet activity. Many kids have multiple e-mail addresses among various free Web sites. Multiple e-mail addresses means multiple routes for spam, not to mention the unsavory and dangerous Internet communication.

That is why in this body we need to address the problem and start helping parents filter out this irritating and indeed potentially financially ruinous junk. Indeed, in the Senate, we will take action to protect the millions of Americans who have used the Internet the positive way for which it was intended—to talk, to communicate, to stay in touch with loved ones, to shop and to talk to families and friends with good intent. We simply should not be hassled by fraudulent sales pitches. We simply should not have to put up with being pelted with pornographic mate-

rial when we simply sign on to read e-mail. Aggressive spamming is a menace. It is threatening an otherwise miraculous and indeed revolutionary form of communication. We simply cannot and should not let a few nefarious individuals spoil it for us all.

I bring this issue up in part because my son mentioned last night what happened to him when he turned on his computer and there was the spam laid out in over 250 e-mails sent to him over a period of several weeks, and in part because we all see it each and every time we turn on our computer.

I look forward to working with my colleagues to address this problem, and indeed to help America's families and Internet users put a stop to this spam.

I yield the floor.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry: Are we currently in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I want to first say to the distinguished majority leader that I was privileged to be here for part of the comments on the floor. As usual, today he brings to the floor of the Senate a tremendously difficult issue confronting the American people. What he spoke of in terms of spam and our kids is a tough one. We have to solve it. I believe his response to his own question about whether it can be solved is that it can be solved. It is going to be tough. I hope we can get some good Senators to put their shoulders to it and see what we can do about getting it stopped.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1432 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

### WAR WITH IRAQ

Mr. DOMENICI. Mr. President, Democrats—not all, but some, predominantly those running for President of the United States—have questioned United States intelligence and war with Iraq based on 16 words. Republicans have made a comprehensive case based on facts, recent history, and protecting the American people. Democrats', in my opinion, politically motivated case, questions intelligence and a war with Iraq in the following words found in the address by the President:

The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.

The case for going to war was not made by those words.

No. 1, it was made on the proposition of protecting the American people.

On a September morning, threats that had gathered for years, in secret and far away, led to murder in our country on a massive scale. As a result, we must look at our security in a new way, because our country is a battlefield in the first war of the 21st century. We learned a lesson: The dangers of our

time must be confronted actively and forcefully, before we see them again in our skies and in our cities. And we set a goal: we will not allow the triumph of hatred and violence in the affairs of men.

That is from a speech President Bush made to the American Enterprise Institute on February 26, 2003.

Possession of the world's most deadly weapons is the ultimate trump card. . . . Should we take the risk that [Saddam] will not someday use these weapons at a time and a place and in a manner of his choosing . . . ? The U.S. will not and cannot run that risk to the American people. That is not an option, not in a post-September 11 world.

That is from the presentation Secretary Powell made to the United Nations Security Council on February 5, 2003.

The second reason to go to war was the refusal to disarm:

Saddam Hussein has been under a duty to disarm for more than a decade. Yet he has consistently and systematically violated that obligation and undermined U.N. inspections. And he only admitted to a massive biological weapons program after being confronted with the evidence.

That is from a radio address to the Nation President Bush made on December 7, 2002.

The third reason to go to war was the refusal to allow weapons inspections:

Iraq has undermined the effectiveness of weapons inspectors with ploys, delays, and threats—making their work impossible and leading to four years of no inspections at all.

That is from a press conference President Bush gave on November 8, 2002.

The fourth reason to go to war was the use of biological and chemical weapons:

Now, what makes him even more unique is the fact that he's actually gassed his own people. He has used weapons of mass destruction on neighboring countries and he's used weapons of mass destruction on his own citizenry.

That is from a press conference President George Bush gave on October 21, 2002.

The fifth reason for going to war—chemical weapons:

We know that the regime has produced thousands of tons of chemical agents, including mustard gas, sarin nerve gas, VX nerve gas. Saddam Hussein also has experience in using chemical weapons. He has ordered chemical attacks on Iran, and on more than forty villages in his own country. These actions killed or injured at least 20,000 people, more than six times the number of people who died in the attacks of September the 11th.

That is from President Bush's Cincinnati speech on October 7, 2002.

Earlier today, I ordered America's armed forces to strike military and security targets in Iraq. Their mission is to attack Iraq's nuclear, chemical and biological weapons programs and its military capacity to threaten its neighbors. Their purpose is to protect the national interest of the United States.

That is from a speech to the Nation by President Bill Clinton on December 16, 1998.

The sixth reason for going to war—biological weapons:

It was then that the regime was forced to admit that it had produced more than 30,000 liters of anthrax and other deadly biological agents. The inspectors, however, concluded that Iraq had likely produced two to four times that amount. This is a massive stockpile of biological weapons that has never been accounted for, and capable of killing millions.

That is from President George W. Bush's Cincinnati speech on October 7, 2002.

Although criticizing the Bush Administration for its "sudden burst of urgency" to go after Saddam, he did not dispute the Iraqi dictator's possession of prohibited weapons and stated on September 23, 2001: "We know that he has stored secret supplies of biological and chemical weapons throughout his country."

That is from the Washington Times of June 4, 2003.

#### No. 7, concealed WMD production:

In 2001, an Iraqi defector, Adnan Ihsan Saeed al-Haidari, said he had visited twenty secret facilities for chemical, biological and nuclear weapons. Mr. Saeed, a civil engineer, supported his claims with stacks of Iraqi government contracts, complete with technical specifications. Mr. Saeed said Iraq used companies to purchase equipment with the blessing of the United Nations—and then secretly used the equipment for their weapons programs."

This came from "A Decade of Deception and Defiance," a briefing document to accompany President George W. Bush's speech to the U.N., September 12, 2002.

#### No. 8, Saddam Hussein's atrocities:

The government continues to execute summarily alleged political opponents and leaders in the Shi'a religious community. Reports suggest that persons were executed merely because of their association with an opposition group or as part of a continuing effort to reduce prison populations."

This came from "A Decade of Deception and Defiance," a briefing document to accompany President George W. Bush's speech to the U.N., September 12, 2002.

#### No. 9, links to terrorists:

Iraq shelters terrorist groups including the Mujahedin-e-Khalq Organization (MKO), which has used terrorist violence against Iran and in the 1970s was responsible for killing several U.S. military personnel and U.S. civilians; the Palestine Liberation Front (PLF), which is known for aerial attacks against Israel and is headed by Abu Abbas, who carries out the 1985 hijacking of the cruise ship *Achille Lauro*; and the Abu Nidal Organization, an international terrorist organization that has carried out terrorist attacks in twenty countries, killing or injuring almost 900 people.

This came from "A Decade of Deception and Defiance," a briefing document to accompany President George W. Bush's speech to the U.N., September 12, 2002.

#### No. 10, peace and stability in the Middle East:

And there is no doubt that his aggressive regional ambitions will lead him into future confrontations with his neighbors—confrontations that will involve both the weapons he has today, and the ones he will continue to develop with his oil wealth.

This was Vice President Cheney in a speech to VFW convention, August 26, 2002.

#### No. 11, nuclear weapons:

The evidence indicates that Iraq is reconstituting its nuclear weapons program. Saddam Hussein has held numerous meetings

with Iraqi nuclear scientists, a group he calls his "nuclear mujahideen"—his nuclear holy warriors. Satellite photographs reveal that Iraq is rebuilding facilities at sites that have been part of its nuclear program in the past. Iraq has attempted to purchase high-strength aluminum tubes and other equipment needed for gas centrifuges, which are used to enrich uranium for nuclear weapons.

This was President George W. Bush, the Cincinnati speech, October 7, 2002.

On the nuclear question, many of you will recall that Saddam's nuclear ambitions suffered a severe setback in 1981 when the Israelis bombed the Osirak reactor. They suffered another major blow in Desert Storm and its aftermath.

This was Vice President Cheney in a speech to VFW convention, August 26, 2002.

There is no doubt in my mind that these and many more are the reasons we went to war. These and many more are the reasons Americans supported the war. These and many more are the reasons they still support the war. These and many more are the reasons they hope this war ends in a successful peace. These reasons and many more, not the 26 words that are being argued about, are the reasons Americans supported our President in the war, supported our troops in the war, support both of them today, and support both in a genuine American hope that peace will ensue.

Already there are some fruits of this effort in the Middle East. We hadn't seen for a long time the meetings between the Israelis and the Palestinians that we have been seeing. This war had something to do with that. Let's hope it is the beginning of peace.

I yield the floor.

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate now will proceed to consideration of H.R. 2555, the Homeland Security appropriations bill, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2555) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The chairman of the subcommittee, the Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am pleased to present for the Senate's consideration today the fiscal year 2004 Department of Homeland Security Appropriations Act.

This bill provides appropriations for the first time directly to the new Department of Homeland Security which was created by law last November. The September 11, 2001 attacks on the World Trade Center in New York City and the Pentagon here in Washington dramatically illustrated the need for more effective protection of our homeland.

On March 1 of this year, this new Department of Homeland Security was formally established. Its mission is to reorganize the Federal Government's

efforts to prevent terrorist attacks, to reduce the vulnerability of the United States to terrorism, and to deal more effectively with the damages that are caused by natural disasters as well.

The Department has administrative control over and responsibility for 22 previously existing Federal agencies and an estimated 180,000 employees.

The bill we present today provides total new budget authority for fiscal year 2004 of \$29.326 billion to fund the Department. In addition, an estimated \$4.8 billion in collections from immigration services and from air passenger and carrier fees paid by the users will be available to the Department for fiscal year 2004.

This bill is \$1 billion over the President's budget request. The bill recommends that this additional amount of money be used to increase funding to assist State and local first responders, to enhance aviation security, to better protect critical infrastructures, to more effectively secure our ports and waterways, to hire and train additional border investigators and inspectors, and to establish the surveillance capability to protect our northern border.

As the Presiding Officer well knows, this is a big country. You cannot possibly build a wall around it. We have over 95,000 miles of coastline. The northern border of our country stretches a distance of 5,500 miles. Our southern border with Mexico is approximately 2,000 miles in length, all present very real and very important challenges to the security protection effort of our homeland.

For fiscal year 2003, and with the additional appropriations recommended by this bill for fiscal year 2004, Congress will have provided over \$3 billion for the security of our Nation's ports and waterways and over \$10 billion for security of all sectors of transportation through the Transportation Security Administration.

Through the firefighter assistance and Office of Domestic Preparedness grant programs alone, the Congress will have provided almost \$9 billion since September 11, 2001, to enhance the capacity of the Nation's first responders.

To further explain part of the uses that are expected by the committee for these funds, I invite the attention of the Senate to page 9 of the committee's report that we have submitted to accompany this bill. It says, "Pursuant to the President's National Strategy for Homeland Security, the Secretary is to provide to the Committee, no later than April 30, 2004, a report that updates the progress that is made to: clearly define standards and guidelines for Federal, State, and local government emergency preparedness and response in such areas as training, interoperable communications systems, and response equipment; an estimate of the costs of the unmet needs of State and local governments for fiscal years 2004–2008 in meeting those standards and guidelines."

This illustrates the fact that, first of all, we know you cannot transform our country's homeland security infrastructure overnight; it is going to take time. This bill marks the beginning of the effort and a response to the President's call for the strengthening of our homeland security capability through the establishment of a new Department, which was undertaken by Congress through its legislative committees that actually wrote the law that provided the legal authority for this new Department to begin its work. This bill provides the money the Department needs. It is not all the money that can be spent. It is not all the money that everybody suggests is needed. But it is a very important and generous investment in the effort to begin the work that has to be done to reach the goals we all share.

As the Committee report suggests it is going to take a while, too, for local governments and local responders to upgrade their capabilities, through training, through exercises, through new state-of-the-art equipment and communications equipment, and other assets that are necessary to fully reach our goals. Working together with a better sense of cooperation between State, local, and Federal Government agencies, I am confident that we are going to see a dramatic improvement made. This is another positive step forward.

I am hopeful that Senators will appreciate the fact that we want to hear their advice. We had hearings where we not only heard other Senators' suggestions about steps that ought to be taken and the dollar amount of funds that ought to be appropriated, but we also heard from administration officials whose job it is to manage this new Department. We had a series of six hearings on these subjects. The Homeland Security Act established four new directorates under the auspices of the Department of Homeland Security and its Secretary. Agencies were reorganized, such as the Customs Service. Some disappeared, such as the Immigration and Naturalization Service. However, the components and activities of that previous agency are included under the control and authority of the new Department in a way that we hope will make it a more effective organization and those agencies better able to do their job.

But the challenges are quite enormous, as we all recognize. There have been, in the course of our hearings, discoveries made of the challenges, in terms of how many people there are to keep up with who are undocumented aliens within the United States, for example. That number has increased from 3 million in 1990 to an estimated 9 million now. Forty percent of those people originally gained entry into the United States legally, but they never left when either the time expired for their visa or the end of the legal authority of their presence came about. Attempting to identify and track those people, some of whom may be threats

to our security and many of whom may not be threats to our national security, illustrates the challenges we face.

We are embracing in this bill the development of new technologies to help us identify, through automation and new technologies, friendly vessels that come close to our shores, that enter our ports, in a way that you can automatically know whether this ship is certified and licensed to enter that port or not.

The Coast Guard is included as a complete entity within the new Department of Homeland Security and is taking on new roles. So we have our challenge from the President to support these efforts. I think Congress is responding, as it should, with a generous bill for appropriations of funds needed to start this Department off on its way.

We will continue to monitor the use of these funds, as we suggested in the report. We are going to require to be kept advised of the progress made to achieve the goals. We will have oversight hearings. If we see there are needs that arise that have not been funded, we will bring those to the attention of the Senate. Working with our friends in the House, we will go to conference with the House upon the passage of this bill and work out the differences between our two bills and present the final result to the President for his signature.

I am hopeful that the Senate will support this bill. I am confident it will help achieve our goal of a strengthened and much-improved homeland defense against terrorism and natural disasters, as well.

Before I yield the floor, I would like to point out that I certainly appreciate and acknowledge the good assistance of the distinguished Senator from West Virginia, Mr. BYRD, who is the senior Democrat on the Appropriations Committee and who serves as the ranking Democrat of this subcommittee, for his cooperation and support during the committee's consideration and development of this bill.

The following is a detailed summary of the bill's major funding recommendations.

For security, enforcement, and investigations activities of the Department funded under Title III of the bill, \$19.5 billion is recommended. Included in this amount is a total of \$8.1 billion for the Department's two new bureaus—the Bureau of Customs and Border Protection, and the Bureau of Immigration and Customs Enforcement. Also recommended is \$5.4 billion for the Transportation Security Administration; \$6.8 billion for the Coast Guard; and \$1.1 billion for the United States Secret Service.

For assessments, preparedness, and recovery activities of the Department funded under Title IV of the bill, \$8.3 billion is recommended. This includes \$3.6 billion for emergency preparedness and response activities; \$823 million for the Department's new Information

Analysis and Infrastructure Protection Directorate; \$201 million for the Federal Law Enforcement Training Center; and \$3.6 billion for the Office for Domestic Preparedness.

In addition, the bill recommends \$494 million for Departmental operations and oversight; \$229 million for the Bureau of Citizenship and Immigration Services; and \$866 million for research and development activities of the Department's Science and Technology Directorate.

The bill recommends \$8.1 billion for the defense of the nation's borders and investigations and enforcement of our immigration and customs laws.

Included in this amount is an increase to establish the first permanent northern border surveillance air wing.

The bill also provides \$380 million for the United States Visitor and Immigrant Status Indicator Technology project, known as US VISIT. This automated entry/exit system is one of the Department's top priorities. It will track the entry and exit of all non-immigrant travelers, making it easier for legitimate travelers while making it more difficult for those who may intend to do us harm.

The bill recommends \$4.9 billion for the Bureau of Customs and Border Protection, which supports inspection activities and patrolling of our borders.

As I previously stated, the United States has 5,525 miles of border with Canada and 1,989 miles with Mexico. Our maritime border includes 95,000 miles of shoreline. Each year, more than 500 million people cross the border into the United States, some 330 million who are non-citizens. There are 118,129,875 vehicles that enter the United States annually and 16 million cargo containers.

To assist the Bureau in its task to protect our border, the bill provides an increase of \$74.3 million for additional personnel, \$41 million of which is for 570 additional border agents.

In addition, the bill provides full funding of \$12.1 million for the Customs Trade Partnership Against Terrorism. A safe and secure supply chain is a critical part of the Bureau of Customs and Border Protection's work to keep our country safe. Through this initiative, the Bureau is committed to working closely with companies whose good business practices ensure supply chain security as well as compliance with trade laws.

It also provides the requested increase of \$61.7 million for the Container Security Initiative. This initiative seeks to enhance the security of an indispensable, but vulnerable, link in the chain of global trade: the oceangoing shipping container. Proactively screening containers before they reach the United States will significantly contribute to efforts to secure the borders against dangers that might be introduced through commercial traffic. A more secure maritime trade infrastructure will help ensure the continued smooth flow of merchandise through seaports.

The bill recommends \$2.8 billion for the Bureau of Immigration and Customs Enforcement, which supports investigations, intelligence, detention and removal activities, and provides a safe and secure work environment for Federal facilities. To assist the Bureau in carrying out these tasks, the bill provides an increase of \$28.3 million for additional investigative and intelligence personnel.

The bill provides an increase of \$66.2 million for the establishment of the first permanent air surveillance wing on the northern border. The Nation is vulnerable to illegal incursions by terrorists, drug smugglers and other criminals. The establishment of this air wing will allow the Department to extend its reach to an at-risk area of the Nation's airspace.

The bill also provides a transfer of \$424 million from the General Services Administration, Federal Buildings Fund, for the Federal Protective Service, which is the same as the President's budget, to ensure a safe and secure workplace for Federal employees.

For the Transportation Security Administration, responsible for ensuring security across the U.S. transportation system, including our Nation's airports, railways, highways, and waterways, the bill recommends total funding of \$5.4 billion.

For security enhancements to our Nation's aviation sector, an increase of \$307 million over the President's budget request has been provided. A major component of this increase is \$150.5 million for the purchase of baggage explosive detection systems and \$309 million to make security improvements at our Nation's airports, including the permanent installation of these detection systems in the airport to move them out of airport lobbies. In addition, the bill provides funding at the President's requested level for passenger and baggage screeners at airports.

Also provided for the security of aviation is \$600 million for the Federal Air Marshals program, and \$25 million for Federal flight deck officer training for commercial pilots who voluntarily apply to carry firearms in the cockpit.

To further enhance TSA efforts to secure cargo placed on aircraft, \$30 million is provided for the screening of air cargo.

For maritime and surface transportation security activities, the bill provides \$150 million for port security grants, \$30 million for the continuation of operation safe commerce to better secure cargo entering the Nation's three largest ports, and \$25 million for trucking industry grants to provide for safe travel on our Nation's highways.

To further improve transportation security, \$130.2 million is provided for research and development of the latest technologies to detect and deter terrorist attacks, including \$45 million for research and development of next generation explosive detection systems and \$30 million for research and devel-

opment of new technologies to screen air cargo.

The bill recommends \$6.88 billion in total funding for the United States Coast Guard, which supports the President's request for search and rescue activities, fisheries enforcement, drug interdiction, and defense-related activities. Included in this amount are increases for the Integrated Deepwater Systems, "Deepwater", Maritime Safety and Security Teams, and the Automatic Identification System.

The bill provides \$702 million for the Deepwater program, which is \$202 million above the President's budget. Deepwater missions cover the spectrum of the Coast Guard's responsibilities, including: homeland security, search and rescue, alien migrant interdiction, drug interdiction, fisheries protection, and marine environmental protection.

Deepwater was conceptualized as a 20-year program at a cost of \$500 million a year, to recapitalize the Coast Guard's aging assets and fully integrate the communications capability of all ships and aircraft. In order for Deepwater to be completed in 20 years, the annual funding would have to include inflation, which has not been the case. If the recent pattern of underfunding continues, the projected timeframe for completion could increase to 30 years, thereby increasing the total cost to the government. Fiscal year 2004 funding of \$702 million will go a long way toward getting Deepwater back on schedule for completion in 20 years.

The bill provides \$134 million for the Rescue 21 program, which is the same as the President's budget. Rescue 21 is effectively the maritime 9-1-1 system for mariners in distress, designed to monitor distress calls, alert response assets, and coordinate search and rescue responses. This funding will improve the Coast Guard's effectiveness and enhance mission delivery of marine safety, law enforcement, environmental protection, and homeland security.

The bill provides an increase of \$40 million for the Automatic Identification System, which is similar to an air traffic control system that transmits important safety and security information concerning vessels back to a shore-based receiver. This provides the Coast Guard with the capability to track vessels throughout the coastal zone and provide greater security to the Nation's ports.

To further strengthen the capacity of the Nation's first responders to prepare for and respond to possible terrorist threats, the bill provides \$3.638 billion for the Office for Domestic Preparedness.

Included in this amount is \$1.2 billion for State and local basic formula grants; \$500 million for State and local law enforcement terrorism prevention grants; and \$750 million for high-threat urban area discretionary grants.

The bill also provides \$750 million for firefighter assistance grants, to remain as a stand-alone program.

The bill does not recommend the consolidation of funding for emergency management performance grants into the Office for Domestic Preparedness grant programs, as proposed in the budget. An appropriation of \$165 million for this grant program is provided through the Emergency Preparedness and Response Directorate.

The bill recommends \$3.6 billion in total funding for the operations of the Emergency Preparedness and Response Directorate, fully supporting the fiscal year 2004 budget for preparedness, mitigation, response, and recovery activities; public health programs, to include the Strategic National Stockpile; and information technology services and regional operations.

The bill provides \$1.9 billion for disaster relief as proposed in the President's budget. The disaster relief fund through the Department of Homeland Security will continue to operate the programs formerly run by the Federal Emergency Management Agency to assist victims in presidentially-declared major disasters and emergencies.

The bill provides \$200 million for flood map modernization activities to modernize and digitize the Nation's flood maps. These maps are outdated and in some cases not permanently documented, as the digitization process would provide. Fiscal year 2004 funding will ensure that the Department stays on track to provide up-to-date flood maps for the Nation within 5 years.

The bill continues the Emergency Management Performance Grants, "EMPG", at \$165 million, and does not recommend shifting this program to the Office for Domestic Preparedness. EMPG is a State matching grant program designed to assist States and local communities in all-hazards planning and response, and is therefore more appropriately administered through the Emergency Preparedness and Response Directorate. In Mississippi, the number of counties with emergency management programs has increased from 43 to 65 in the last three years because of funds made available through EMPG. The same is true for numerous other States, indicating the importance of this program to provide communities with the capability to develop localized emergency management programs.

The bill recommends \$823.7 million for activities of the Information Analysis and Infrastructure Protection directorate to identify and assess threats to the homeland, map threat information against current vulnerabilities, issue warnings, and take preventive and protective action.

A critical component of this directorate is the ability to provide the resources to secure our Nation's critical infrastructures from catastrophic events. In order to achieve this, \$293.9 million is provided for critical infrastructure and key asset identification, field assessments of critical infrastructures, and key asset protection implementation to help guide development

of protective measures to harden facilities and assets.

For the intelligence and warning functions of the Department of Homeland Security, \$101.7 million is provided to guide collection, assessment, evaluation, and prioritization of all intelligence information.

As part of the effort by IAIP to better secure not only physical assets but also cyber assets, the bill includes \$98.5 million for the integration of physical and cyber infrastructure monitoring and coordination for cyber security.

A total of \$866 million is recommended for the research and development activities of the Department's Science and Technology Directorate.

This directorate is tasked with the centralization of research and development department-wide and is provided \$64 million in support of conventional missions of the Department's agencies and bureaus.

The bill also provides \$55 million for the establishment of a university-based system to enhance and strengthen the efforts of homeland security on our Nation's campuses.

As the Department works to monitor and detect cyber attacks by terrorist organizations within the auspices of the Information Analysis and Infrastructure Protection directorate, Science and Technology is responsible for the research and development of the most appropriate technologies for next generation cyber threat characterization, detection, and origination. For these activities, the bill provides \$18 million.

A total of \$70 million is made available for the technical support working group responsible for the rapid development and prototyping of new technologies in support of homeland security.

For research and development of critical infrastructure security assurance, \$72 million is provided, of which up to \$60 million is made available for research, development, testing, and evaluation of an anti-missile system for commercial aircraft. There also is a great need for the development of standards and protocols for equipment that is used in the field for detecting, mitigating, and recovering from terrorist attacks and funds are available for this purpose.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

# A CONSTANT DRUMBEAT

Mr. BENNETT. Mr. President, the constant drumbeat in the press goes on. We find it highlighted in this week's national news magazines: a constant attack on the credibility of George W. Bush; a constant drumbeat calling him a liar, at the very least an exaggerator who did it deliberately to mislead the American people and to take us to war.

Those in the media who get involved need to be reminded just a little bit of their responsibility. It is their responsibility to react not just to the flavor of the moment, in terms of political issues, but to give us a little bit of institutional memory. Since they seem to lack that memory, I will do my best to supply it here this afternoon.

I remember as a Member of this body some intelligence lapses that occurred and decisions that were made on the basis of those lapses. Let me give you some.

I remember when the United States bombed a pharmaceutical plant in Sudan because the intelligence said it was a place where biological weapons were being created. This was not a trivial matter. I went to the room here in the Capitol that is reserved for secret briefings. I refer to it as the secret room where secret people tell us secret things, and I had no less than the Secretary of Defense absolutely insist that the intelligence was rock solid that biological weapons were being produced at this plant in Sudan.

We now know the intelligence was wrong. The plant was not involved in the production of biological or chemical weapons. The intelligence information that led us to believe it had been was flawed, it was old, and the casualties that occurred on that occasion were civilians who needlessly lost their lives because the American intelligence was bad.

The question is: Would we have been better off if we had not destroyed that plant in the Sudan? And the answer is clearly yes. Intelligence let us down. We made the wrong decision. We killed some civilians. We would have been better off if we had not proceeded.

The second lapse of intelligence occurred during the bombing in Bosnia. I was involved in this one to a greater degree than the other. This is where the Americans bombed what they thought was a legitimate target and it turned out to be the Chinese Embassy. Furthermore, it was more than just the Chinese Embassy. It was the center of Chinese intelligence activity that covered most of that part of Europe.

I was in China on a congressional delegation not long after that occurred. One after another Chinese official kept berating me and the other members of the delegation as to why we had deliberately targeted and destroyed a key intelligence center for the Chinese.

Our answer was that this was an intelligence failure on our part; that the CIA was using an old address book, and we had not realized we were, in fact,

destroying a very sensitive Chinese installation.

I remember the response from a Chinese official as we made that explanation. He said: You Americans have the best intelligence in the world. You have been following what we have been doing in that part of the world for years. You destroyed a major intelligence asset of ours, and you claim it was a mistake? You claim your intelligence assets were so bad you did not realize we had been at that location for years?

It was very clear from the questions and the tone of voice with which those questions were asked that the Chinese officials did not believe us. They did not believe we were capable of such a stupid mistake.

The only defense that could be offered, and it was offered by another member of the delegation, was it had to be a mistake because, in fact, it was so stupid. No one would have done that deliberately and damaged the relationship between the United States and the Chinese so seriously.

It was in response to that the U.S. Embassy in Beijing was stoned. I saw the windows that were broken. I saw the bullet holes that pocked the walls as people fired on the Embassy. It was a major incident.

Again, the fundamental question: Would we have been better off if we had not done it? And the answer is an unequivocal and overwhelming, yes; we would have been better off if we had not done it.

I could go on, but let me take those two examples of failed intelligence and those two questions—would we have been better off if we had not done it in the Sudan, and would we have been better off if we had not done it in Belgrade—and put them in the context of today's debate.

Let's assume for a moment—and I underscore that I do not—that the intelligence that led up to the decision to go ahead in Iraq was as faulty as the administration's critics are now claiming it was, and then ask the same fundamental question: Would the world be better off if we had not gone into Iraq? And the answer is clearly, no. The answer is clearly as Tony Blair laid it out before the joint session of Congress. He made it clear if we made a mistake, history will forgive the mistake because the consequences of it were that we freed the Iraqi people. We brought a degree of credibility and stability into that region that has not been there. We have new leverage to deal with the Israeli/Palestinian question beyond that which any American President has had.

If, in fact, we blundered into Iraq—and, once again, I underscore the fact I do not believe we did—we did a good thing. Unlike the failed intelligence that caused us to blow up a civilian production facility in the Sudan, which was a bad thing, unlike the failed intelligence that caused us to destroy the Chinese Embassy in Belgrade, which

was a bad thing, if there was flawed intelligence here that caused us to go into Iraq, it was still a good thing.

Let me give an example of flawed intelligence with respect to Iraq. We did not know, going into Iraq, the degree to which Saddam Hussein had committed genocide against his own people. With all of the intelligence assets we had on the ground in Iraq, we were unaware of the number and extent of the mass graves that we are still uncovering while we are there. If we are going to complain, as those in the media are doing, that the intelligence going into Iraq was flawed, they should complain just as much about the failure of intelligence to tell us the degree of his brutality. But they are not talking about that. We do not get any media reports with each new discovery of a major new mass grave. Those are dismissed in what is called the mainstream media because that might lend support to the idea that going into Iraq was the right thing to have done.

No, instead we are quibbling over words that appeared in the State of the Union that somehow triggered massive misunderstanding on the part of the American people. I would challenge anyone to go to anyone in America and ask them how many of them remember the 16 words that are being challenged. Well, maybe the American people do not remember those words but certainly the Congress does.

There is a slight problem with that because the State of the Union Message was given after the Congress had approved the President's intervention in Iraq. The vote was taken on this floor prior to the time the President made those statements. So how can anyone in this body claim that he or she was misled by the President's statement in the State of the Union when the vote was taken prior to the time that statement was made?

Once again, that is a fact that is conveniently left out of all of the media analysis. They do not tell us that Congress went to the briefings and came to its conclusion as to the rightness of the decision in Iraq before the President made that comment in the State of the Union.

I went to the briefings. There was a briefing at the Pentagon that I remember very carefully. We went over for breakfast with the Secretary of Defense and he gave us a complete briefing on the entire issue of weapons of mass destruction and where things were in Iraq. I must say I did not see any of the current critics of the President's plan present at that briefing. I remember fairly clearly who was there. I could not name all of the Senators who were there, but I could name all of the Democratic Senators who were there, and none of them is currently engaged in criticizing the President.

I remember a briefing at the White House in the Roosevelt Room with representatives of the CIA and Condoleezza Rice, where we went through the whole issue of weapons of

mass destruction. Once again, I can remember the Senators who were at that briefing. It was open to all. It was not a private thing where a few Senators were requested. Any Senator who wanted could have gone to that briefing. I remember those who were there. Not one of the current critics of the President's position was there at that briefing.

So I find it a little disingenuous to have them say they were misled when they did not attend the briefings that were given.

Now let me take my colleagues to that briefing in the Roosevelt Room in the White House and summarize for them what was said there. We were told the following: Four areas of deep concern were raised, and we were told in descending order of how scary these were. The first was biological weapons. The second was Saddam Hussein's capacity to deliver those weapons. The third was chemical weapons. The fourth was nuclear weapons.

I remember that very clearly because I summarized it back to the briefers and said: Let me be sure I understand what you are saying. You are saying you are most frightened of his capacity in the biological area, slightly less frightened about his ability to deliver those weapons, slightly less frightened about his capacity in the chemical area, and least frightened about his capacity in the nuclear area? And they said, yes, Senator that is the descending order of concern.

I cite that because we are now being told in the popular press that the entire operation was sold to us because of the threat of nuclear weapons, ignoring the facts that we were given at the briefing to which they did not come.

The question was raised, Why should we be going against Saddam Hussein at this particular time? That was one of the questions at the briefing. I remember the answer very clearly. If we are just talking about weapons of mass destruction, there are a number of countries that have weapons of mass destruction. Indeed, if we went to the country that has the most outside of the United States itself, that would be Russia. Simple possession of weapons of mass destruction, the point was clearly made at the briefing, simple possession of weapons of mass destruction does not justify taking action.

A brutal dictator who oppresses his own people. Look around the world and there are plenty of brutal dictators who oppress their own people. Being a brutal dictator who oppresses his own people is not justification for the United States to go to war against you. That point was clearly made at the briefing.

Willingness to invade your neighbors. There have been regimes around the world that have attacked recently their neighbors. Clearly, the United States cannot intervene every time there is a border war or a willingness to attack your neighbors. That, alone, does not justify going against someone in a military fashion.



Using weapons of mass destruction is different from possessing them. Now we are getting kind of narrow because we do not have a great number of examples of regimes that have used weapons of mass destruction. But maybe that alone, again, does not justify going against another regime.

Put them all together—possession of weapons of mass destruction, using the weapons of mass destruction, crossing borders and invading your neighbors, and being in the hands of a brutal dictator—now we are getting a list and we are coming very close to Saddam Hussein, as the only brutal dictator with weapons of mass destruction, who qualifies for all four of those.

But there is a fifth that comes into play as a follow-on to September 11: That is financing and harboring terrorists. Let me make it clear at that briefing, no one said there was a heavy al-Qaida presence in Iraq. Once again, people in the media are attacking President Bush for saying something that, in fact, he did not say. What was said at the briefing was Iraq sponsors terrorism, Iraq funds terrorism, and there are intelligence reports of Iraq harboring members of al-Qaida who are fleeing for their lives.

The statement was never made that there was a major al-Qaida headquarters in Iraq. The statement was simply made that terrorists run through Iraq. A number of terrorist organizations, in addition to al-Qaida, have been represented in Iraq. Iraq funds terrorism throughout the region.

Here are five different criteria, any one of which might not be enough to justify moving against a foreign government. Indeed, two or even three gathered together might still not justify moving against a foreign government. But the statement was made clearly, when you put all five together and ask yourself where in the world do you find all five at the same time, the answer is in one place and one place only: That place is Iraq.

That was the intelligence briefing I attended. That was the intelligence information I heard when I made up my mind to be in support of the President and this operation. As I said before, I do not remember—indeed, I am sure that most of the President's congressional critics—indeed, all of—the President's congressional critics in this Chamber—were not there. They did not hear the briefings.

For them to come forward now and say the President misled them, when they did not go, is disingenuous. I do not feel misled. I do not feel uninformed. I do not feel the intelligence was bad. Insufficient? Of course. Intelligence is always insufficient. But that does not mean it was deliberately manipulated; that does not mean it was planted; that does not mean anyone did anything but the very best he or she could do in good faith.

The fundamental question I posed earlier still stands. Even if you accuse the President of doing all of what his

critics are saying he did, was it bad to have gone into Iraq and toppled Saddam Hussein? Until critics either in the Congress or the media will come forward and say, we used bad intelligence to make the bad decision and the world would be better off if Saddam Hussein were still in power, they cannot, in my view, sustain their criticism. They cannot fault this President unless they are willing to say in this instance what we can say in the two other instances I have described.

Intelligence was flawed in the Sudan. Would the world be better off if we had not destroyed that plant? Yes. The intelligence was flawed in Belgrade. Would we be better off if we had not destroyed the Chinese Embassy? The answer is yes. If the intelligence was flawed in Iraq, the same question still applies: Would we be better off if we had not toppled Saddam Hussein? Until someone is willing to answer that question yes, I am not willing to give credence to their complaints about this President and this White House.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

#### DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2004—Continued

Mr. BYRD. Mr. President, today the Senate takes up H.R. 2555, the Department of Homeland Security Appropriations bill. This is the first homeland security appropriations bill in the history of the Nation. The Senate Appropriations Homeland Security Subcommittee was created just 4 months ago. Under the able leadership of Chairman COCHRAN, the subcommittee held six hearings to review the operations of the Department of Homeland Security. I commend Chairman COCHRAN and his staff for their work on this important legislation.

The bill provides discretionary budget authority totaling \$28.521 billion, a level that is \$1.039 billion above the President's request. The bill is at the level available under the 302(b) allocation. Regrettably, the allocation for homeland security programs is inadequate. This is not a criticism of Chairman COCHRAN, nor is it a criticism of full Committee Chairman TED STEVENS. Unfortunately, the budget resolution that passed this Congress limited discretionary spending to levels below the President's already inadequate request. The budget resolution severely constrains our ability to address known threats to the safety of the American people.

With the Department of Homeland Security regularly changing the ter-

rorist level from elevated to high and back, and with the Secretary saying publicly that another terrorist attack is inevitable, the demands for homeland security spending seem endless. Our job on the Appropriations Committee is to make careful choices. Unfortunately, the budget resolution has forced us to exclude from the bill some funding that both the Congress and the President have recognized as being real needs.

All Americans, whether they live in rural communities or major cities, want to know that if there is a terrorist attack close to their homes, their local doctors and nurses have the training to treat the injured. Americans want to know that their local firemen have the ability and the equipment to handle a chemical or biological attack. Americans want to know that their local police officers are trained in identifying and responding to the variety of terrorist attacks that we could now face.

Regrettably, this bill, while providing first responder funding at a level that is \$303 million over the President's request, is \$434 million below the level that the Congress approved for the current fiscal year. The Federal Government needs to remain a full partner in local homeland defense efforts and adequate funding is essential to that task.

According to the Secretary of Defense, the United States is spending \$3.9 billion per month for the war in Iraq. Yet this bill includes only \$3.9 billion for the entire year for equipping and training our first responders. Frankly, I believe that the President and the administration have lost their focus on what really matters to American citizens; namely, the combating of terrorism and securing the homeland.

One of the mysteries about the President's budget is the budget for the Transportation Security Administration or TSA. TSA was created by the Aviation and Transportation Security Act of 2001 and was supposed to focus on securing all modes of transportation. Yet the President's budget includes only \$86 million or 2 percent of the TSA budget for maritime and land security.

Yet the President's budget includes only \$86 million.

The rest of the President's budget request is for aviation security and for administration. What about securing our ports? What about securing our trains? What about securing our subways and our railway tunnels? What about securing our buses, or securing the trucks that carry hazardous materials? In fact, the President's budget requests 2.5 times more for administering the Transportation Security Administration bureaucracy than the President does for securing the Nation's ports, trains, trucks, and buses.

I commend Chairman THAD COCHRAN for recognizing this problem and for addressing some of these weaknesses. But he simply did not have the resources available to him to deal with several well-known vulnerabilities.



For example, in November of 2002, President Bush signed the Maritime Transportation Security Act which established new standards for securing our Nation's ports. Despite the fact that the Coast Guard had estimated it will cost the ports \$5.4 billion over 10 years to implement those standards, including \$1.1 billion the first year, the President did not request a dime for port security.

The bill that is before the Senate includes \$150 million for port security grants, and I commend Chairman COCHRAN for finding the resources within the limited allocation for this important program. I hope we can do more to secure our ports.

In October of 2001, the President signed the Patriot Act, which called for tripling the number of Border Patrol agents and Customs and immigration inspectors on the northern border. In May of 2002, the President signed the Enhanced Border Security and Visa Entry Reform Act, which authorized significant new investments in Border Patrol agents and facilities. The goals with regard to Customs inspectors and border facilities cannot be met with the limited funding that was made available for discretionary programs under the budget resolution.

Under the President's proposal for the Transportation Security Administration, there is a significant gap in securing commercial airlines. Under the proposal, each airline passenger is screened before he or she gets on a plane, and each passenger's baggage would be screened before being loaded on a plane. But commercial cargo on that same plane would be left unchecked. That is a dangerous security risk that needs to be addressed. This bill adds \$30 million to the budget request to research, develop, and deploy air cargo security programs to enhance the secure transport of cargo on commercial airlines. I believe we need to do more to secure cargo on our commercial airlines.

However, with the funds that were made available to the subcommittee under our allocation, I believe Chairman COCHRAN has produced a good bill. It is balanced. It is fair. It addresses a number of weaknesses in the President's budget request that we identified during our committee hearing.

We increased funding over the President's request to equip and train our first responders. We continue to fund effective programs such as the Fire Grants Program and the All Hazards Emergency Management Performance Grants Program, which the President had proposed to consolidate into a single grant program. We increased funding for our airports to purchase explosives detection equipment and to install that equipment.

We increased funding over the President's request for the Coast Guard in order to keep the Deep Water Air and Sea Modernization Program on schedule. We recognize that not all transportation security vulnerabilities are at

our airports. We also fund grants for port security, bus security, and for securing hazardous materials.

Additionally, this legislation takes an important step to protect personal privacy. The bill delays for 60 days the expenditure of funds on implementing the Department's proposed new Airline Passenger Profiling System—CAPPS II—until the General Accounting Office conducts a study and reports to the Congress on the privacy implications of the system. We must make sure that the privacy rights of individuals are protected and that individuals who are determined to pose a threat to security have an appeal mechanism.

This is a good bill, but we must address several critical shortfalls that result from the budget resolution that put tax cuts at the front of the line and left homeland security to compete with every other Federal program for limited dollars. The result, regrettably, is a homeland security budget that leaves gaps in our security by leaving priority programs underfunded.

After 9/11, Congress passed the Patriot Act, the Maritime Transportation Security Act, the Aviation and Transportation Security Act, and the Enhanced Border Security and Visa Entry Reform Act. And the President signed them with great fanfare. But the President has done little to fulfill the promise of those laws. Now the Senate has before it the funding legislation that would either fulfill the promise of those acts or continue to leave the Nation and its citizens vulnerable.

I urge all Members to be mindful of the solemn duty to "provide for the common defense, promote the general welfare and secure the blessings of liberty for ourselves and our posterity" as we debate this important appropriations bill.

#### AMENDMENT NO. 1317

(Purpose: Fulfilling Homeland Security Promises)

Mr. BYRD. Mr. President, I send to the desk an amendment for discussion and action, not this afternoon but tomorrow or subsequently.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1317.

On page 75, Line 6, insert the following:

#### TITLE VII—FULFILLING HOMELAND SECURITY PROMISES

##### OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY CUSTOMS AND BORDER PROTECTION

For an additional amount for "Customs and Border Protection", \$238,500,000, to remain available until December 31, 2004, for which not less than \$100,000,000 shall be for border ports-of-entry infrastructure improvements, and not less than \$138,500,000 shall be for staffing at the northern border.

##### TRANSPORTATION SECURITY ADMINISTRATION AVIATION SECURITY

For additional amounts for necessary expenses of the Transportation Security Ad-

ministration related to aviation security services pursuant to Public Law 107-71 and Public Law 107-296 and for other purposes, \$100,000,000, to remain available until expended, for air cargo security.

##### TRANSPORTATION SECURITY ADMINISTRATION MARITIME AND LAND SECURITY

For additional amounts for necessary expenses of the Transportation Security Administration related to maritime and land transportation security services pursuant to Public Law 107-71 and Public Law 107-296 and for other purposes, \$532,000,000, to remain available until December 31, 2004, of which not less than \$57,000,000 shall be available for grants to public transit agencies in urbanized areas for enhancing the security of transit facilities against chemical, biological and other terrorist threats, not less than \$460,000,000 shall be for shortfalls pursuant to Public Law 108-10, for port security grants for the purpose of implementing the provisions of the Maritime Transportation Security Act, and not less than \$15,000,000 for inter-city bus security grants for enhancing inter-city bus and facility protection against terrorists threats.

##### UNITED STATES COAST GUARD OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$70,000,000, to remain available until December 31, 2004, of which not less than \$70,000,000 shall be costs pursuant to Public Law 107-295 for implementing the Maritime Transportation Security Act including those costs associated with the review of vessel and facility security plans and the development of area security plans.

##### OFFICE FOR DOMESTIC PREPAREDNESS

For additional amounts for the "Office for Domestic Preparedness," \$729,500,000: *Provided*, That of the amount made available under this heading: \$250,000,000 shall be available for grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3711); \$250,000,000 shall be for discretionary grants for use in high-threat urban areas, as determined by the Secretary of Homeland Security; \$79,500,000 shall be for interoperable communications equipment; \$150,000,000, to remain available through December 31, 2004, shall be for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

##### OFFICE OF THE UNDER SECRETARY FOR INFORMATION

##### ANALYSIS INFRASTRUCTURE PROTECTION

For an additional amount for the "Office of the Under Secretary for Information Analysis and Infrastructure Protection", \$80,000,000, to remain available until December 31, 2004, for chemical facility security assessments.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. COCHRAN. Mr. President, I ask unanimous consent that there now be a period of morning business during which Senators may speak for up to 10 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRESS IN IRAQ

Mr. FRIST. Mr. President, I want to comment on an opportunity I had on Saturday to meet with Ambassador Bremer shortly after his arrival from Iraq. And we met, for a short period of time, with Senator WARNER and Representatives LEWIS and MURTHA to talk a little bit about what is going on on the ground in Iraq, specifically with coalition provisional authority, what their role is, how much progress is being made in rebuilding Iraq.

It is so difficult for all of us, in our briefings, where we are getting information secondhand, thirdhand—we are watching the news on television and reading it in the papers, and you get slivers of information—it is very tough to put in perspective what is actually going on in this vast country, where we know we are rebuilding not just from the war several weeks ago but from 10 years of neglect—indeed, 30 years of neglect. It is hard to assess, in terms of health care and water and schools and roads, where we are. You really see very little in terms of progress being made based on the information that filters through to us.

That is really why, as a prelude to some of the things we will hear tomorrow, Ambassador Bremer is going to come and visit with us in the Senate, where we will have a discussion. He is briefing the administration today, and he had several very public addresses on Sunday. But what he has to say is astonishing in lots of different ways, but mostly I think because of the relative silence in the press about the conditions on the ground in terms of progress, in terms of improvement.

After talking to Ambassador Bremer, it is clear to me that we are making real progress, demonstrable progress, day to day, week to week, in Iraq. Just as one example, I very specifically asked about food and asked about health care. Today, based on all objective measures, and as reinforced by Ambassador Bremer, there is no food crisis in Iraq. Indeed, there is no health care crisis in Iraq right now, today. The provision of basic utilities is improving daily, as is the overall public health situation. Indeed, I believe the Ambassador said that next week there will be a second immunization day nationwide scheduled.

When I asked about basic health care services, the Ambassador replied that they have been restored to about 90

percent in the north and 80 percent in the south and about 75 percent in the mid region around Baghdad.

When I asked about specific hospitals, I was told that over 200 hospitals—I don't know the exact number; there are over 200 hospitals in Iraq—all of those hospitals are now operational, in service.

Much of Iraq is near the prewar service conditions for water. When I speak of water conditions, I include sewage and the like. But what is interesting, and what we have to constantly remind ourselves, is that the country has been in a state of deterioration over the last 15 years, with no money invested in clean water, servicing that water, getting water to the people, and sewage plants. So even prewar conditions were very poor. But then we had the impact of the war. We have some sabotage going on right now. But now we are just about up to the prewar service conditions. We still have a long way to go to get back to the sort of conditions we would say are acceptable.

In terms of security, while lawlessness and entrenched Saddam loyalists continue to obstruct and hinder recovery efforts, progress has been made on the security front as well. Large-scale looting has stopped, has come to an end. Where there were once, not that long ago, empty roads, empty streets, and deserted markets, there are now bustling sidewalks with all sorts of items being sold, from shoes to satellite dishes to basic utensils. Now you see traffic back on the streets and even traffic jams.

Except for the small, central area—an important area but a small area—encompassing Tikrit and Baghdad, security throughout the rest of Iraq has improved. Indeed, more than 80 percent of the country is living in a more secure environment than they were before the war. Mr. President, 34,000 Iraqi police have been rehired, and 30,000 are on duty right now. Additionally, over 1,000 guards have been hired to protect 87 sites just in Baghdad alone.

Also, we hear, again: Is it just the United States? Ambassador Bremer will share with us the participation and cooperation we are receiving from around the world. We are not going it alone. He has mentioned, and continues to mention, the international constabulary teams that are from Italy and Spain that will serve as a bridge between the combat forces and the police.

The one distressing area we hear about every morning when we wake up or late at night is the distressing news of guerrilla activity and attacks on our troops. Indeed, our hearts go out to the families who have been affected and continue to be affected by this loss of loved ones. But it is important for us to understand we are not fighting a large-scale insurgency at this point in time. We are fighting the dead-enders from the old regime, the former Baathists. They have no popular support in Iraq. They will not return to power.

In addition to improving the security of the country, the coalition is also working hard to generate a thriving Iraqi economy. Again, we have to mention, however, that the Iraqi economy has been grossly mismanaged for more than 30 years. By his own estimates, Iraq suffered from employment levels at 50 percent before the war. Before the war, at least 30 percent of the GDP was spent just on the military—not on building infrastructure or refurbishing infrastructure, not on water supply or sewage plants or health or education.

Saddam Hussein had run the country into the ground: 50 percent unemployment; 30 percent of the GDP, the gross domestic product, spent on the military. Saddam's government spent zero on capital goods. And, yes, there were lavish palaces. There were manmade lakes, luxury yachts, and cars. Saddam spent untold billions on himself and his regime, but for the Iraqi people, for the people themselves, he left them a country with an infrastructure, as we witness today, that is brittle, that is antiquated, and, indeed, is susceptible to breakdown.

I mention this because, at least in my conversations with the Ambassador, it is clear we need for us and the American people to understand that part of this reconstruction is going to be reconstruction from the war but mainly reconstruction from the last 10, 15, 20 years of this tyrannical, oppressive regime.

As we look at the economy, I am fascinated by the dispensing fund which has been set up that is financing and will continue to finance construction projects and reconstruction projects that are carried out by the Iraqis themselves.

It is currently employing Iraqi construction firms to carry out the restoration of that national infrastructure. The coalition is paying salaries, paying pensions. It is paying the army and buying crops from farmers. And these are the first steps toward building and rebuilding that economy, a functioning economy, and indeed they are vital steps. And they are under way. Freedom is coming to the Iraqi people. Freedom is coming to support their economy.

In terms of democracy itself, the coalition is leading Iraq toward a functioning democracy. It was just a little over a week ago, just 8 days ago, that the governing council of Iraq was established. The council comprises 25 political leaders from across Iraq. Its immediate responsibilities include the appointment of ministers, the creation of a 2004 budget, and a constitutional process. It is remarkable that these 25 will be charged with sitting down and writing a constitution really from scratch.

The governing council will be responsible for creating a constitutional process, not just the writing but the actual debate as to what should be in the constitution. Once the constitution is drafted, then free elections will take

place. That will create a sovereign Iraqi government. When that government is created, the coalition provisional authority's work is essentially done, but it does take time. It does take patience. It does take time to rebuild the economy, to establish the security that the people of Iraq deserve.

I welcome the ambassador to the Senate tomorrow to hear of his firsthand experiences and to help paint that perspective which makes it much easier for us both to view the news and the information that is given to us so we can make appropriate policy decisions. It is vitally important that we have that complete perspective and that full view of the Iraqi situation. We will stay the course. The Iraqi people, of course, depend on us to stay the course. It will take time. It will take patience. It will take determination.

It is astounding to me that even in defeat Saddam has the power seemingly to turn the free world against itself and divert the media's attention from his monstrous crimes. For the last week and a half we have had a glossing over of the atrocities this man had committed. I appeal to my colleagues to look at the Iraqi people, at this crucial turning point in their history, and allow the Iraqis for the first time in 30 years to really taste what freedom is all about.

We talk all the time in this Chamber about helping, reaching out to help the oppressed and helping the downtrodden. Now is the time to ask: Are Iraqis in some way unworthy, are 300,000 missing people in Iraq merely a statistic? Every day our soldiers are turning up mass graves full of the bones of men, women, and children who have been hacked down literally by Saddam's men. We are beginning to see these images. We in this body have had the opportunity to talk to our Senate colleagues who have visited Iraq recently. There are literally tiny skeletons strewn in the dust alongside these once-adored little plastic baby dolls. The images are coming back to us to demonstrate the atrocities committed by Saddam Hussein.

We cannot, we should not look away. We will not look away. We know this will take time.

On the question of weapons of mass destruction, we know, and indeed we have those horrifying pictures, that Saddam used chemical and biological weapons of mass destruction against his neighbors and his own people. Last week on the floor I talked about my opportunity to visit directly in my office with Kurdish physicians, who are still practicing today, who talked about the thousands of Kurds, Saddam's own people, who were killed by the chemical weapons of Saddam Hussein. Indeed, these Kurdish physicians tell me they are still taking care of people today who suffered the morbidity of having been exposed to chemical weapons, those who were fortunate enough to survive.

Furthermore, Saddam's quest for nuclear weaponry is well known. It is in-

disputable. One only need ask the most elemental question: For what purpose were nuclear scientists on Saddam's payroll? Indeed, the Senator from Florida, Mr. GRAHAM, told Fox News Sunday:

What we're concerned about with Iraq is its intention and capabilities to develop weapons of mass destruction, and the merger of that capability with terrorist groups. That is the ultimate nightmare scenario.

The nightmare is over. A bloody tyrant no longer rules in Iraq. A man who without qualm or regret murdered members of his own family and tens of thousands of his own citizens has been removed from power. The perpetrator of one of the past century's most gruesome crimes against humanity, the use of chemical weapons on thousands of innocent Kurdish civilians, is no longer free to pursue such weapons. The aggressor in the gulf war who a decade ago invaded his neighbor only to be driven out by a mighty coalition no longer threatens the volatile region of the Middle East. Iraq is no longer a playground for Saddam and his demented offspring. Iraq is finally and thankfully on the road to liberation.

Yes, it will be a bumpy road. It will take time. Even America was not built in a day. We are rebuilding, not just from the war but from 30 years of neglect. Today we should be celebrating the historic opportunity before the Iraqi people to build a democracy that respects the rule of law, that values life, that protects the God-given rights of every Iraqi citizen. We should lend them our strength and our competence as they face the difficult journey ahead. There can be no other course of action.

I believe that when all is said and done, Iraq will proudly stand among the nations of free people.

#### FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT OF 2003

Mr. GRASSLEY. Mr. President, I rise today to inform my colleagues that I have raised an objection to proceeding to S. 1125. Although I support finding a solution to the asbestos litigation crisis, there are a number of problems with this bill as currently drafted regarding the tax treatment of the asbestos fund. These problems affect the tax treatment of the amounts paid into and received from the asbestos fund. If not remedied, there could be serious adverse tax consequences to the companies, the asbestos fund, and, most importantly, the beneficiaries. These tax issues are within the jurisdiction of the Finance Committee, I believe that S. 1125 should be referred to the Finance Committee, but in the event it is not, the bill should be held from the floor until the Finance Committee can report a separate tax title for floor consideration.

#### DEPARTMENT OF DEFENSE

Ms. SNOWE. Mr. President, I rise today to speak in support of the De-

partment of Defense Breast Cancer Research Program. Last week, we passed a Defense appropriations bill that includes \$150 million in funding for this program. In the more than 10 years since its inception, I have worked with many of my colleagues to ensure that this groundbreaking program continues to have the strong level of support necessary to give researchers the essential resources they need to discover the keys to curing and preventing breast cancer.

Breast cancer is the most commonly diagnosed cancer in women. It accounts for 30 percent of all cancers in women. In the United States in 2002 alone, it is estimated that 203,500 women were diagnosed with invasive breast cancer while 40,000 women lost their lives to this disease. These women are our mothers, our sisters, our daughters, our friends. Research toward a cure cannot bring those loved ones back to us, but we hope it will spare thousands of future tragedies and provide hope for women currently struggling with this devastating disease.

Earlier this year, as I have for the past several years, I coordinated a letter, along with Senators LEAHY and others, requesting that the Defense appropriations for fiscal year 2004 contain \$175 million in funding for the Department of Defense Breast Cancer Research Program. This letter received the strong bipartisan support of 66 senators. Although budgetary constraints did not permit funding at the requested level, the fiscal year 2004 Defense appropriations bill does contain \$150 million for this program. Given the challenges of this year's budget, I am pleased that the appropriation bill contains such a strong level of support.

The research made possible by the Breast Cancer Research Program may benefit not only the victims of breast cancer but of countless other diseases as well. This program fills a unique role in offering awards that fill gaps in ongoing research and complement initiatives sponsored by other agencies. The program supports research and training awards that promote the investigation of innovative ideas and a strong workforce of scientists in this critical field. In an analysis of this program the Institute of Medicine said:

The Program fills a unique niche among public and private funding sources for cancer research. It is not duplicative of other programs and is a promising vehicle for forging new ideas and scientific breakthroughs in the nation's fight against breast cancer.

In just over a decade since its inception, the DOD Breast Cancer Research Program already has shown great success. The flexibility of this program helps to maximize the limited resources available. I applaud the strong support of this program and want to stress that the intent of reviewing alternative funding sources is to strengthen breast cancer research efforts and not to affect funding for the current program. I am concerned about

any efforts to review or restructure the program that might reduce the effectiveness and vitality of the dynamic research efforts it supports. Much work remains to be done in our quest for the cure, and I will continue my strong support of the Breast Cancer Research Program in years to come.

Mr. President, as this bill heads to conference, I urge the conferees to recognize the strong congressional support of this program by, at a minimum, maintaining the Senate funding level.

HONORING JOHN HARDT

Mr. BENNETT. Mr. President, I want to take this opportunity today to pay tribute to a very distinguished servant of the legislative branch of Congress. In May 2003, Dr. John Hardt ends his official service with the Congressional Research Service after 32 years as a valuable resource to Congress in the field of international economics and foreign affairs. In many ways, Dr. Hardt's retirement symbolizes the ending of an era for the Congress; he is the only remaining CRS senior specialist now providing Congress with research and analysis in the field of foreign affairs. He has been a great asset to the Congress and to CRS throughout his long career in public service.

Dr. Hardt received both his PhD in economics and a certificate from the Russian Institute from Columbia University. Prior to joining the Congressional Research Service, he had already had the kind of illustrious career that serves as a lifetime achievement for many others. He served his country with distinction during World War II, receiving ribbons and battle stars for both the European and Asiatic Theaters of operations as well as the Philippines Liberation Ribbon. He has been an educator—specializing in economics, Soviet studies, and Sino-Soviet studies—at the University of Washington, the University of Maryland, Johns Hopkins University, the George Washington University, the Foreign Service Institute, and American military service schools. He has served in the American private sector specializing in Soviet electric power and nuclear energy economics for the CEIR Corporation in Washington, DC, and as Director of the Strategic Studies Department at the Research Analysis Corporation in McLean, VA, where he specialized in Soviet comparative Communist and Japanese studies. He is a widely published author, with hundreds of research papers, journal articles, technical memoranda, and book chapters to his credit.

Dr. Hardt joined the Congressional Research Service as the senior specialist in Soviet economics in November of 1971. It is work for CRS—and for us, the Members of this body—that I want to honor today. For the past three decades, Dr. Hardt has served Members of Congress, their staff and committees with his considerable expertise in Soviet and post-Soviet and Eastern Europe economics, the economy of the People's Republic of China,

East-West commercial relations, and comparative international economic analysis. He has advised, among others, both the Senate and House Commerce Committees on East-West trade; the Senate and House Banking Committees on the Export-Import Bank and other U.S. Government financing programs; and the Senate Finance and House Ways and Means Committees on U.S. trade policy. He frequently has traveled with congressional committee delegations, serving as a technical adviser on visits to the former Soviet Union, Poland, Hungary, the former Yugoslavia, the United Kingdom, the Federal Republic of Germany, Italy, and Sweden, and then preparing committee reports for these trips. On many occasions, Dr. Hardt has been called on to advise directly Members of Congress and congressional staff on Russian Federation debt reduction and its relationship to nonproliferation concerns, and has provided support to the Russian Leadership Program, especially those events and activities that involved Members of Congress. The extent of his national and international contacts is breathtaking, and includes senior members of foreign governments and leading multinational businesses.

His most lasting legacy for Congress may well be his service as both editor and coordinator of a long series of Joint Economic Committee compendia on the economies of the PRC, Soviet Union, and Eastern Europe. The Congress can take pride in these important, well known, and highly respected JEC studies, to which Dr. Hardt devoted so much of his talent and energies. The more than 70 volumes of this work include: *China Under the Four Modernizations, 1982*; *China's Economy Looks Toward the Year 2000, 1986*; *The Former Soviet Union in Transition, 1993*; *East-Central European Economies in transition, 1994*; and *Russia's Uncertain Economic Future, 2001*. The series includes hundreds of analytical papers on various aspects of issues pertinent to Congress and to U.S. policy, all written by internationally recognized government, academic, and private sector experts, and all coordinated and edited by Dr. Hardt. This work was not only a valuable source of analysis to the Congress but also to the policy making and academic communities at large. For many years, these volumes were the most comprehensive sources of economic data and analyses on the economies of the Soviet Union, China and Eastern Europe.

Let me make one final point to illustrate the loss that we, as Members of Congress, sustain with Dr. Hardt's retirement. That point concerns one of the great strengths that CRS offers to Congress, and which Dr. Hardt's tenure and contributions at CRS epitomize perfectly: institutional member. Of the 535 Members of the 108th Congress, only 11 were Members of the 92nd Congress when Dr. Hardt first assumed his official congressional duties. Most of the countries that he has specialized in

have undergone astounding transformation during his working life—some, indeed, no longer exist. The membership of this deliberative body in which we serve has turned over many times. Committees have come and gone. But through it all, John Hardt has been a constant fixture, a strand of continuity in an environment of continual change—part of the collective institutional memory of CRS which is of such value to our work in Congress. We wish Dr. Hardt well in the new ventures on which he will be embarking. He will be greatly missed by us all.

#### ADDITIONAL STATEMENTS

##### TRIBUTE TO YASMINA VINCI

• Mrs. MURRAY. Mr. President, today I honor one of our most dedicated leaders, effective advocates and passionate activists for America's children: Ms. Yasmina Vinci. Ms. Vinci is retiring after 11 years as the executive director of the Nation's Network of Child Care Resource and Referral Agencies, NACCRRA. Ms. Vinci started the Washington, DC office of NACCRRA from her kitchen table with just a telephone and fax machine and built it into a highly respected organization representing more than 860 local and State child care resource and referral agencies.

Ms. Vinci is one of our Nation's most tireless advocates for a high-quality early care and education system designed to serve all children. As executive director of NACCRRA, Ms. Vinci has provided vision, leadership and support to community child care resource and referral agencies and has promoted national policies and partnerships committed to the development and learning of all children. Ms. Vinci has worked diligently to promote quality in child care resource and referral services.

Prior to joining NACCRRA in 1992, Ms. Vinci was the manager of special projects in the New Jersey Department of Human Services where she managed the Dependent Care Grant, coordinated the development of the New Jersey plan for the implementation of the Child Care and Development Block Grant and supervised a number of research, immunization and Head Start-related projects. For nearly 10 years, Ms. Vinci was the executive director of an inner-city child care center, serving 200 low-income families through a continuum of high quality, comprehensive, and family supportive programs.

Ms. Vinci has served on the Boards of the National School Age Care Alliance, the Interfaith Council for the Homeless, United Way and YWCA. She is a current member of the Board of the Alliance for Work Life Progress, the Center for Evidence Based Practices, the Center for Social and Emotional Foundations for Early Learning and the NOW Legal Defense and Education

Fund National Advisory Commission on Child Care and Early Education. In addition, Ms. Vinci has served as a commissioner on the National Head Start Fellowship Commission since its inception.

Ms. Vinci's commitment to children and those who care for them is an inspiration to all who have known and worked with her. Her contributions have made a difference in the lives of many and have built a pathway for generations to come. On behalf of America's children and advocates for children, I thank her for her great work and wish her a rewarding retirement.●

#### LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on September 21, 2001. In Holden, MA, a 20-year-old man stopped at a traffic light assaulted another driver because he thought he was of Middle Eastern descent. The assailant got out of his car, pulled the driver out of his van, and proceeded to attack the victim. The assailant punched and yelled at the victim, striking him several times before the van driver attempted to fight back.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

#### BRAD BEAN

● Mr. BURNS. Mr. President, today I recognize and honor a special friend, Mr. Brad Bean. Brad has been involved in the development and planning of the Burns' Telecommunications Center since its inception and has been dedicated to the continued expansion and advancement of the Burns' Center. Brad played an integral role in capturing my vision of using technology to connect all sectors of our rural State to the "new world" of electronic transmission and communication which has developed since the late 1980s. My goal to develop a technology training center dedicated to distance learning, telemedicine, classrooms, students and teachers and the business community has been advanced by Brad's belief in that vision.

His proven leadership has drawn individuals and companies from around the world to invest in the Burns' Telecommunications Center. Brad and his

wife, Jacqueline, have helped to promote the opportunities available at the Burns' Center to people from many places in Montana and beyond its borders. Brad has served on the Burns' Telecommunications National Advisory Board and is retiring this year to my regret. I personally thank Brad and acknowledge and praise his passion for excellence, program development and his loyalty to my mission for the Burns' Center. Brad has gone above and beyond the call of duty and I salute him for his generous support and help.

We are fortunate in Montana to have people like Brad and Jacqueline, who are willing to give of themselves to help their community and their State.●

#### TRIBUTE TO A PATRIOT, HARLAN MEREDITH

● Mr. SHELBY. Mr. President, I rise today in recognition of Mr. Harlan Meredith, a resident of Tuscaloosa, a Navy hero, and a leader in our community. Over the Independence Day holiday, a friend of mine, Charlie Land, read the following tribute about Mr. Meredith. I ask that Charlie's comments be printed in the RECORD in celebration of Harlan Meredith.

The material follows:

Once upon a time a young man of this church, freshly graduated from the University of Alabama, faced the world and pondered the future. I know that doesn't sound like a big deal. New college graduates are always doing that. No doubt some are right now.

But this was a special time. It was May of 1941. He was 20 years old and war loomed uncertainly on the horizon.

He already had tried to get into military service through the University's advanced Army or Army Air Corps ROTC programs. Both had turned him down. Something always seemed to be wrong when he took the required physical examinations, although nothing ever showed up in his regular physicals. "I guess the Lord was just looking after me," he would muse many years later. "I figure He just didn't want me to be in those."

Within a few months, the Japanese attacked Pearl Harbor. War wasn't just on the horizon anymore.

He really had always wanted to serve in the U.S. Navy, anyhow. He applied for a direct commission as a naval officer and was accepted. He was ready to go fight for his country, for freedom.

But the Navy sent its new ensign to Chicago to oversee the hydrographic office that served the Great Lakes. It was not an unimportant job and he did it well. His commanding officer in Detroit was pleased. He pronounced his ensign a lucky young man; he could hydrograph his way through the whole war right there in Chicago. He liked Chicago okay, but that wasn't at all where he wanted to be or what he wanted to do. He wanted to go to sea and fight. It took a while, and he had to find his own replacement, but finally he was off to San Francisco to train for sea duty.

Now he was 21, but he was still single, his wife-to-be yet unmet. And he was all steamed up to go to the South Pacific.

"You know how you are at that age," he says.

He got there, although in a sort of round-about way. His first sea duty was on the sea-

plane tender Hulbert, a converted destroyer, in the Aleutian Islands off Alaska. It was no pleasure cruise. The Aleutians were hostile waters; Japanese forces occupied some of the islands. There was combat, although not the heavy action to be found in the South Pacific. One night the Hulbert dragged anchor off a point in the Aleutians, ran aground and sank.

He transferred to a small new escort aircraft carrier based in Portland, OR. Typical of her class, the ship was named for a bay. Her namesake, Kalinin Bay, was in Southeast Alaska. But she would take her new gunnery officer from Tuscaloosa to the South Pacific at last.

And there would be some action.

The *Kalinin Bay*, with her 27 aircraft and 860 crew members, sailed about the South Pacific, doing her chores. A lot of them involved combat. There were enemy air attacks to fend off. There was the occasional torpedo to dodge. There were air strikes to be made. There were invasions to support—Sapan, Guam, the Southern Palaus, islands in the Leyte Gulf and finally the invasion of Leyte itself as Gen. Douglas MacArthur made good on his promise to return to the Philippines.

So the *Kalinin Bay* was no stranger to combat as she steamed some 60 miles east of the Philippine Island of Samar early on the morning of October 25, 1944. She already had operated off Leyte for more than a week. Her planes already had flown 244 sorties, destroying enemy installations and airfields on five different islands.

She was part of a small naval battle group nicknamed "Taffy 3." It included 5 other escort carriers, plus a screen of 3 destroyers and 4 destroyer escorts. The carriers of "Taffy 3" were preparing to launch their first air strikes of the day when its commanding admiral learned that a sizable Japanese naval force was approaching. It was 0647 hours.

By 0658 hours, "Taffy 3" was under fire from part of the largest Japanese surface fleet to fight since the Battle of Midway, coming to keep the Americans out of the Philippines.

The "Battle Off Samar", as it would be called, was under way. It would be described by historians as one of the most memorable engagements in U.S. naval history.

The ships of "Taffy 3", slower, outnumbered and outgunned, soon were fighting for their lives against a force of four Japanese battleships, eight cruisers and 12 destroyers. The *Kalinin Bay* took the first of 15 direct hits at 0750 hours, a 14- or 16-inch shell from one of the battleships. It struck one side of the hangar deck near the forward elevator. A later hit penetrated the deck and destroyed all of the ship's radio and radar equipment.

Fortunately, some of the shells went right through the ship without causing significant damage. And even more fortunately, there were a great many near misses. The *Kalinin Bay* fought back hard. She launched her aircraft while under fire from three cruisers. She dodged behind a timely rain squall, then maneuvered behind chemical smoke. She traded fire with the cruisers for a while, then shot it out with Japan's Destroyer Squadron 10.

Her 5-inch gun stayed busy. It scored two hits on one heavy cruiser and hit a Japanese destroyer amidships. And her planes inflicted heavy damage, striking the enemy ships with bombs, rockets and gunfire.

The Japanese naval vessels turned away for "Taffy 3" after 2½ hours, but not before their destroyers launched a torpedo attack. The torpedoes were launched from far enough away to begin to slow before reaching their targets. So a U.S. Avenger torpedo-

bomber from a sister ship was able to explode two torpedoes in the *Kalinin Bay's* wake about 100 yards astern, and the ship's 5-inch gun deflected another from a collision course with her stern.

Battered and bloody, the U.S. force sailed south, but there still would be little respite for the *Kalinin Bay* and her surviving sister ships. Little more than an hour later, at 1050, they came under concentrated attack from kamikaze aircraft, the suicide bombers of World War II. Four kamikazes dived at the *Kalinin Bay*. Two of the airplanes were shot down at close range. The third crashed into one side of the flight deck, damaging it badly. The fourth destroyed the aft port stack.

It was finally over by 1130 hours. The ships and planes of "Taffy 3," with some help from the planes of another unit, "Taffy 2", had cleared the air of enemy planes and had denied the powerful Japanese force entry into the Gulf of Leyte.

MacArthur's beachhead was safe.

The price had been high. Five of "Taffy 3's" 13 ships had been sunk—two carriers, a destroyer and two destroyer escorts. Hundreds of American sailors had died. The *Kalinin Bay* counted five dead among her 60 casualties, plus considerable structural damage.

During the hours of intense, furious fighting, the gunnery officer of the *Kalinin Bay* never wished he was back in that office in Chicago.

The *Kalinin Bay* managed to make it to New Guinea for temporary repairs. The ship was back in the States by late November and he transferred off as it awaited further work. Shipmates had died in several battles. He had been frightened at times and his faith in God had been tested. But he had come through without a scratch and with his faith stronger than ever.

"You realized your Christian faith was the most important thing you could have," he would say. "In combat I felt like I was sent there for a purpose. I felt like God's hand was holding me the whole time; I really did."

He was ready for his next assignment.

It was to the Midway, a much larger aircraft carrier that soon was to be commissioned at Newport News, VA. The idea was for the Midway to sail around the Horn and into the Pacific, where it would be a powerful additional force. By the time the Midway was commissioned September 10, 1945, that assignment was unnecessary. Gen. MacArthur had accepted Japan's unconditional surrender on September 2 aboard the Battleship Missouri in Tokyo Bay. The war was over.

The Midway would have a lasting impact on his life, though. A fellow naval officer needed tickets to the commissioning ceremony for house guests, and he was glad to oblige. Among the guests he met the lovely young woman from Tuscaloosa who would become his wife.

They married shortly after he got out of the Navy. Duty done and a bit older, the young man who had loved his country so much that he was determined to fight for it turned his attention to a successful business career; helped raise two beautiful daughters, and became a highly respected community leader.

He became a stalwart of this church, a wise, practical leader who has given of himself, grown and thrived on his ability to seek and receive more insights. His faith has been unwavering, even during the painful ordeal of one daughter's untimely death.

People who know him will tell you he is a man of high intelligence, great character, impeccable integrity, calm consistency and complete credibility. They will also tell you he hard-working, caring, considerate, loyal

and a Southern gentleman in the best sense of that definition.

He's a man who still greatly loves his family and his hometown and the United States of America and what it stands for, what he fought for.

A patriot.

A man who reminds us in his modest, unassuming way that patriotism isn't some mysterious, exotic condition. It is simple and fundamental and powerful. It springs from fervent love for your country, love for freedom. It is in your heart and spirit and actions, just like it always has been in his.

This sanctuary hasn't lacked for patriots and heroes to sit in its pews to worship God over the decades. Many who fit that description are here today, as you are most Sundays.

I salute you. And I salute Harlan Meredith, who story I'm sure some of you recognized. I also thank him for his graciousness in sharing it with me, at my request, so I could share it with you today.

Incidentally, Harlan and Mary Anne have been married for 57 years now. That's worth a salute, too. Our church, community and country has been blessed to have people like Harlan, and you.

This, too, is a special time in our country's history. Again we are at war. Almost every day more of our soldiers pay the ultimate price for our country, leaving saddened survivors to live with the aftermath. It makes this Independence Day weekend all the more meaningful. I pray it also makes us all the more thankful for our blessings.

And the United States of America truly has been blessed these 227 years, perhaps most of all with the courageous, hard-working, God-loving people who have built and maintained this great country of liberty and justice. People who have been willing to sacrifice and fight for it, as so many continue to do today. Patriots.

We aren't perfect as a country. But to the extent mere humankind can be, the good part of the United States of America is both the light and the hope of the world. May God bless you; may God continue to bless America; and may we never forget from Whom our blessings flow.

I don't think Harlan Meredith ever has. ●

#### MESSAGE FROM THE HOUSE

At 3:41 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2754. An act making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

H.R. 2691. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

#### ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

S. 246. An act to provide that certain Bureau of Land Management land shall be held in trust for the Pueblo of Santa Clara and the Pueblo of San Ildefonso in the State of New Mexico.

H.R. 733. An act to authorize the Secretary of the Interior to acquire the McLoughlin House in Oregon City, Oregon, for inclusion in Fort Vancouver Historic Site, and for other purposes.

H.R. 2330. An act to sanction the ruling Burmese military junta, to strengthen Burma's democratic forces and support and recognize the National League of Democracy as the legitimate representative of the Burmese people, and for other purposes.

#### MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2754. An act making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes.

H.R. 2691. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1434. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-221. A joint resolution adopted by the Assembly of the State of Nevada relative to payments for the detrimental effects of federally held lands in Nevada; to the Committee on Energy and Natural Resources.

#### ASSEMBLY JOINT RESOLUTION NO. 6

Whereas, An average of 52 percent of the land in 13 western states is held by the Federal Government, while the Federal Government holds an average of only 4.1 percent of the land in the remaining 37 states; and

Whereas, In Nevada, approximately 87 percent of the land, which amounts to approximately 61 million acres, is held by the Federal Government; and

Whereas, In 15 of the 17 counties in Nevada, more than 50 percent of the land is held by the Federal Government, and in 4 of the 17 counties, more than 90 percent of the land is held by the Federal Government; and

Whereas, The management and control of such an extensive amount of the land in Nevada by the Federal Government has had substantial adverse effects on Nevadans; and

Whereas, When the Territory of Nevada was admitted to statehood on October 31, 1864, the Federal Government provided the newly admitted state with 2 sections of land in each township for the benefit of common schools, which amounted to 3.9 million acres, while other states that were subsequently admitted to statehood received 4 sections of land in each township for the benefit of common schools; and

Whereas, In 1880, it was necessary for Nevada to agree to exchange its 3.9 million acres for only 2 million acres of its own selection as Nevada had an immediate need for public school revenues and the land originally granted by the Federal Government to Nevada for common schools was not providing sufficient revenue because it included many undesirable sections that were on steep mountainsides or salt flats, the sections of the land could not be received from the Federal Government until they were surveyed and only a small fraction of the land had been surveyed and sold; and



Whereas, The disproportionately small amount of land received from the Federal Government for the benefit of common schools contributes only a small amount of revenue for the schools in Nevada in comparison to other states, and places and excessive burden on the financial resources of each county in Nevada; and

Whereas, Because the land held by the Federal Government is exempt from property taxes, the management and control of such an extensive amount of land in Nevada by the Federal Government has the effect of worsening the tremendous fiscal burdens experienced by counties in Nevada for those counties with a considerable amount of federally held land located within their boundaries; and

Whereas, The annual impact of this property tax exemption in the western states has been estimated at billions of dollars, which greatly hinders the ability of those western states, including Nevada, to develop and prosper economically; and

Whereas, In 1976, Congress enacted Public Law 94-595, which is codified as 31 U.S.C. §§6901 to 6907, inclusive, and as amended, is commonly known as the Payments In Lieu of Taxes Act; and

Whereas, The Act requires the Federal Government to make annual payments to local governments to compensate the local governments for the loss of revenue they experience because of the presence of land within their boundaries that is held by the Federal Government; and

Whereas, Congress appropriates money each year that the Bureau of Land Management distributes to each of the 17 counties in the State of Nevada pursuant to several statutory formulas set forth in the Act; and

Whereas, The annual payments received by the counties in Nevada pursuant to the Act are significantly less than the annual revenue that those counties could collect from property taxes if the land held by the Federal Government were privately held; and

Whereas, From the inception of the payments in 1977 to the end of the 2001-2002 Fiscal Year, the money appropriate by Congress has been insufficient to provide full payment to the counties in Nevada pursuant to the statutory formulas; and

Whereas, Even though Nevada is the state with the second highest percentage of land held by the Federal Government, Nevada only ranks as the eighth highest state in terms of the amount of the payments it receives from the Bureau of Land Management pursuant to the Act because the statutory formula set forth in 31 U.S.C. §6903 is based in part on the population of the local government that will be receiving the payments, and 14 of the 17 counties in Nevada have populations that are less than 50,000; and

Whereas, Another example of the adverse effects of the management and control of the extensive amount of land in Nevada held by the Federal Government is the management and control of the Nevada Test Site, which was established in December 1950, by President Truman, upon the recommendation of the Atomic Energy Commission, as the location at which nuclear weapons testing would be conducted within the continental United States; and

Whereas, Approximately 5,470 square miles of federally held land in Nevada was used to provide:

1. The Nevada Test Site, which is owned and controlled by the United States Department of Energy and encompasses approximately 1,350 square miles of desert and mountainous terrain, an area which is larger than the State of Rhode Island; and

2. An additional 4,120 square miles of unpopulated land area surrounding the site which was withdrawn from the public do-

main for use as a protected wildlife range and for a military gunnery range; and

Whereas, More than 1,100 nuclear weapons tests were conducted at the Nevada Test Site, located 65 miles northwest of Las Vegas Nevada, before the Limited Test Ban Treaty, which effectively banned atmospheric testing of nuclear weapons, was signed on August 5, 1963; and

Whereas, While the primary mission of the Nevada Test Site has been the testing of nuclear weapons, after the signing of the Limited Test Ban Treaty in 1963 and the initiation of a voluntary worldwide moratorium on nuclear weapons testing in 1992, the Nevada Test Site has been used for other purposes, including, without limitation, hazardous chemical spill testing, emergency response training, conventional weapons testing, conducting studies relating to waste management and environmental technology, and storing low-level waste; and

Whereas, In 1978, the United States Department of Energy established two Radioactive Waste Management Sites at the Nevada Test Site which have received approximately 21 million cubic feet of low-level waste for disposal from 1978 until the present, making the Nevada Test Site one of the largest regional low-level waste storage facilities in the country; and

Whereas, Because the Nevada Test Site is centrally located within the Death Valley regional ground-water flow system, which includes much of southern Nevada and the Death Valley region of eastern California, the residents of Nevada and California are subject to risks from subsurface contaminants that may be transported from the Nevada Test Site by ground water as a result of past and future activities conducted at the Nevada Test Site; and

Whereas, The residents and resources of Nevada may be exposed to additional risks because most of the ground water leaving the ground-water flow system is limited to local areas where geologic and hydrologic conditions force ground water upward toward the surface to discharge at springs and seeps; now, therefore, be it

*Resolved by the Assembly and Senate of the State of Nevada, Jointly,* That the members of the 72nd Session of the Nevada Legislature hereby urge Congress to:

1. Authorize the transfer of land in Nevada from the Federal Government to the State of Nevada in the amount necessary to provide Nevada with the same amount of land received by the states that received 4 sections of land for the benefit of common schools upon admission to statehood;

2. Either:

- (a) Amend 31 U.S.C. §6906 to provide permanent funding in the amount necessary to carry out the Payments In Lieu of Taxes Act as set forth in 31 U.S.C. §§6901 to 6907, inclusive; or

- (b) Appropriate for distribution to the counties in the State of Nevada a sufficient amount of money each fiscal year to provide the entire amount of the payments required by the statutory formulas set forth in the Payments In Lieu of Taxes Act;

3. Amend 31 U.S.C. §6903 by deleting the current population-based statutory formula and replacing it with a provision that authorizes the Secretary of the Interior to compensate the counties in Nevada and the local governments of other states in an amount that is equal to the amount that those counties and other local governments would be able to collect in property taxes if the land held by the Federal Government were privately held; and

4. Either:

- (a) Authorize the transfer of an additional 5,470 square miles of land in Nevada and any water rights appurtenant thereto from the

Federal Government to the State of Nevada to fairly compensate Nevada for the approximately 5,470 square miles of land that were withdrawn from the public domain for the purpose of establishing the Nevada Test Site; or

- (b) Appropriate for distribution to the State of Nevada the amount of money necessary to fairly compensate Nevada for the approximately 5,470 square miles of land that were withdrawn from the public domain for the purpose of establishing the Nevada Test Site and any detrimental effects to that land and to the Death Valley regional ground-water flow system that resulted from the activities conducted at the Nevada Test Site; and be it further

*Resolved,* That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as presiding officer of the United States Senate, the Speaker of the House of Representatives, the Secretary of the Interior, the Secretary of Energy, the Director of the Bureau of Land Management and each member of the Nevada Congressional Delegation; and be it further

*Resolved,* That this resolution becomes effective upon passage.

POM-222. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to a special highway appropriation amendment; to the Committee on Energy and Natural Resources.

#### HOUSE CONCURRENT RESOLUTION NO. 5

Whereas, DeSoto, Concordia, and Morehouse parishes have been declared economically deprived areas; and

Whereas, DeSoto, Concordia, and Morehouse parishes are attempting to help themselves economically with ambitious, parishwide projects for industrial development; and

Whereas, successful industrial development requires good, four-lane highways and other infrastructure; and

Whereas, the DeSoto Industrial Board has proposed to the voters, to be decided on October 20, 2001, what is tantamount to a 6.5 mills ad valorem tax to finance up to three major industrial parks; and

Whereas, plans have already been approved to build a four-lane bridge over the Sabine River on U.S. Highway 84 at Logansport, Louisiana; and

Whereas, a four-lane highway connecting I-49 to the four-lane U.S. Highway 59 leading to Houston, Texas, and beyond, would provide a tremendous economic boom to Louisiana, Texas, and the nation; and

Whereas, to four-lane a highway on U.S. Highway 65 in Clayton, Louisiana, in Concordia Parish north to the Arkansas state line and to four-lane a highway on U.S. Highway 425 from Bastrop in Morehouse Parish to the Arkansas state line would provide a tremendous economic boom to one of the most economically depressed areas in the state and the nation; Therefore, be it

*Resolved,* That the Louisiana Legislature does hereby memorialize the United States Congress to support a special highway appropriation amendment to four-lane approximately forty miles of U.S. Highway 84 from I-49 near Mansfield, Louisiana, to Tenaha, Texas, where it intersects U.S. Highway 59, which is four-laned to Houston, Texas, and to four-lane U.S. Highway 65 in Clayton, Louisiana, in Concordia Parish north to the Arkansas state line and four-lane U.S. Highway 425 from Bastrop in Morehouse Parish to the Arkansas state line, be it further

*Resolved,* That a copy of this resolution be transmitted to the presiding officers of the Senate and the House of Representatives of



the Congress of the United States of America and to each member of the Louisiana congressional delegation.

PM—223. A resolution adopted by the Senate of the Legislature of the State of Wisconsin relative to the twenty-seventh year of military occupation of Cyprus; to the Committee on Foreign Relations.

#### SENATE RESOLUTION 11

Whereas, the Republic of Cyprus has been divided and occupied by foreign forces since 1974, in violation of United Nations' resolutions; and

Whereas, the international community and the U.S. government have repeatedly called for the withdrawal of all foreign military forces from the territory of Cyprus; and

Whereas, there are internationally acceptable means to resolve the situation in Cyprus, including demilitarization and the establishment of a multinational force to ensure the security of both communities in Cyprus; and

Whereas, a peaceful, just, and lasting solution to the Cyprus problem would greatly benefit security, as well as the political, economic, and social well-being of all Cypriots, while contributing to improve relations between Greece and Turkey; and

Whereas, the United Nations has repeatedly stated the parameters for such a solution, most recently in the United Nations Security Council Resolution 1217, which was adopted on December 22, 1998, with United States support; and

Whereas, the United Nations Security Council Resolution 1218 adopted on December 22, 1998, calls for reduction of tensions in the island, through a staged process aimed at a limited and then substantially reduced level of all troops and armaments in Cyprus, ultimately leading to the demilitarization of the Republic of Cyprus; and

Whereas, President Bush wholeheartedly supported resolution 1218 and committed himself to taking all necessary steps to support a sustained effort to implement it; now, therefore, be it

*Resolved by the senate*, That the member of the Wisconsin senate endorse President Bush's commitment to undertake significant efforts in order to promote substantial progress towards a solution of the Cyprus problem in 2001, so that all in Cyprus may enjoy rights and freedoms regardless of their ethnic origins; and, be it further.

*Resolved*, That the senate chief clerk shall provide a copy of this resolution to the president and secretary of the U.S. Senate, to the speaker and clerk of the U.S. House of Representatives, and to each member of the congressional delegation from this state attesting the adoption of this resolution by the 2001 senate of the state of Wisconsin.

POM-224. A joint resolution adopted by the Assembly of the State of Nevada relative to prescription drugs in the Medicare program; to the Committee on Finance.

#### ASSEMBLY JOINT RESOLUTION No. 15

Whereas, Prescription medications are vital to health care today; and

Whereas, Medicare represents a critically important source of health insurance for older residents of Nevada and for residents of Nevada with certain disabilities, and the coverage provided through Medicare does not provide coverage for prescription drugs; and

Whereas, Most beneficiaries of Medicare who seek coverage for prescription drugs are required to obtain private or public supplemental coverage to cover prescription drugs; and

Whereas, According to the results of a study conducted by the American Association of Retired Persons (AARP) and con-

tained in the AARP Public Policy Issue Brief #1B41, consisting primarily of data collected in 1999 and based on an average of the different levels of income as a percentage of the federally designated level signifying poverty, beneficiaries of Medicare who are 65 years of age or older spent an average of approximately \$2,500 per year, or 19 percent of their income, on out-of-pocket health care expenses; and

Whereas, According to the AARP study, prescription drugs constitute the largest component of out-of-pocket spending on health care by beneficiaries of Medicare, averaging approximately 17 percent of the total out-of-pocket spending on health care and accounting for more than the costs of physician care, vision services and medical supplies combined; and

Whereas, According to the study, the total spending on prescription drugs in the United States grew by approximately 13 percent per year between 1993 and 2000 and is expected to grow by approximately 12 percent per year through 2011; and

Whereas, According to the study, beneficiaries of Medicare made up approximately 15 percent of the population in 1999, but accounted for approximately 40 percent of the total spending on prescription drugs in the United States; and

Whereas, According to the study, beneficiaries of Medicare with supplemental coverage for prescription drugs are at risk of losing such coverage, as evidenced by a decrease of coverage of prescription drugs offered by certain employers from 31 percent in 1997 to 24 percent in 2001 and a decrease of coverage offered under certain Medicare plans for prescription drugs from 65 percent in 1999 to 50 percent in 2002; and

Whereas, Many older or disabled residents of Nevada who receive Medicare benefits cannot afford supplemental coverage for prescription drugs; Now, therefore, be it

*Resolved by the Assembly and Senate of the State of Nevada, Jointly*, That the members of the 72nd Session of the Nevada Legislature urge Congress to provide a comprehensive universal plan for the uniform coverage of prescription drugs within the Medicare program that will provide beneficiaries of Medicare with stable access to prescription drugs on a voluntary basis, without extraordinary out-of-pocket costs and without unreasonable premiums, deductibles or copayments; and be it further

*Resolved*, That the program of prescription drug coverage for Medicare beneficiaries should have no requirement relating to the use of state funds now used for existing State programs; and be it further

*Resolved*, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

*Resolved*, that this resolution becomes effective upon passage.

POM-225. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to tariff rate quotas for the importation of dry milk protein concentrates; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION No. 9

Whereas, The dairy industry has been significantly impacted in recent years by the rising use of dry milk protein concentrates (MPCs). The technology that makes possible the ultrafiltration process that separates proteins and the other components of milk was not fully developed when the General Agreement on Tariffs and Trade (GATT) was

finalized in 1994. As a result, there are almost no restrictions on the importation of MPCs. This is causing serious damage to the domestic dairy industry; and

Whereas, According to the General Accounting Office report on dairy products, the volume of MPC imports grew from 805 metric tons in 1990 to 44,878 in 1999. The quotas set under GATT in 1994 are clearly not comprehensive enough for the forms in which some dairy products are imported today. Foreign exporters are known to blend dairy proteins for the purpose of circumventing existing tariff rate quotas; and

Whereas, In the 108th Congress, legislation has been introduced to establish tariff rate quotas for MPCs. With the enactment of legislation to close this loophole, American agriculture will be able to compete on a more equal basis. The overall benefits, to our national economy and the domestic dairy industry, will strengthen a vitally important industry and restore the stability of the marketplace; now, therefore, be it

*Resolved by the house of representatives (the senate concurring)*, That we memorialize the Congress of the United States to enact legislation to provide for tariff rate quotas for dry milk protein concentrates that are equivalent to the import quotas currently in place on other dairy products; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-226. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to relief of the cost for prescription drugs in the Medicare program; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION No. 106

Whereas, Medicare is the largest program providing medical and health-related services to America's poorest people; and

Whereas, seniors make up thirteen percent of the population but account for forty-two percent of the country's spending on medicines; and

Whereas, in Louisiana in 2001, thirteen percent of those enrolled in Medicare were elderly; and

Whereas, last year the drug industry raised prices an average of four percent, twice the rate of inflation; Therefore be it

*Resolved*, That the Legislature of Louisiana hereby memorializes the United States Congress to pass legislation giving relief from high prescription drug prices to seniors on Medicare; be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and House of Representatives of the Congress of the United States and to each member of the Louisiana congressional delegation.

POM-227. A concurrent resolution adopted by the House of Representatives of the the Legislature of the State of Louisiana relative to social security benefits for those receiving benefits from federal, state, or local government retirement systems; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION No. 178

Whereas, the Congress of the United States has enacted both the Government Pension Offset (GPO), reducing the spousal and survivor social security benefit, and the Windfall Elimination Provision (WEP), reducing the earned social security benefit for persons who also receive federal, state, or local retirement; and

Whereas, the intent of Congress in enacting the GPO and WEP provisions was to address concerns that public employees who had worked primarily in federal, state, and local government employment receive the same benefit as workers who had worked in covered employment throughout their careers, thereby providing a disincentive to "double dipping"; and

Whereas, the GPO affects a spouse or survivor receiving federal, state, or local government retirement benefits who would also be entitled to a social security benefit earned by a spouse; and

Whereas, the GPO formula reduces the spousal or survivor social security benefit by two-thirds of the amount of the federal, state, or local government retirement benefit received by the spouse or survivor, in many cases completely eliminating the social security benefit; and

Whereas, the WEP applies to those persons who have earned federal, state, or local government retirement benefits, in addition to working in covered employment and paying into the social security system; and

Whereas, the WEP reduces the earned social security benefit using an averaged indexed monthly earnings formula and may reduce social security benefits for such persons by as much as one-half of the uncovered public retirement benefits earned; and

Whereas, because of these calculation characteristics, the GPO and WEP have a disproportionately negative effect on employees working in lower-wage government jobs, like policemen, firefighters, and teachers; and

Whereas, these provisions also have a greater adverse effect on women than on men because of the gender differences in salary that continue to plague our nation; and

Whereas, Louisiana is making every effort to improve the quality of life of her citizens and to encourage them to live here life-long; Therefore be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to review the GPO and WEP social security benefit reductions and to consider eliminating them; be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America, to each member of the Louisiana congressional delegation, and to the school boards of Beauregard, Rapides and Vernon parishes.

POM-228. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to Section 418(d)(6)(C) of Title 42 of the United States Code; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION No. 182

Whereas, Section 418(d)(6)(C) of Title 42 of the United States Code applies to the states of Alaska, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, and Wisconsin and allows each of these states to divide the retirement system or systems established by the state or any political subdivision thereof into two parts; and

Whereas, one of the two parts of any such divided retirement system is composed of members who desire to participate jointly in both the state, statewide, or local retirement system and the federal social security system and the second part of any such divided retirement system is composed of members who desire to participate solely in the state, statewide, or local retirement system but not in the federal social security system; and

Whereas, the due process clause of the Fifth Amendment to the Constitution of the United States has been held to contain an equal protection component, vesting all citizens of the United States with the right to equal protection of the laws of this country; and

Whereas, the provisions of Section 418(d)(6)(C) of Title 42 of the United States Code confer certain rights on the citizens of twenty-one states, while simultaneously depriving the citizens of the state of Louisiana of the same rights without expressly stating a compelling reason for the unequal treatment of those citizens who are deprived of their constitutional right to equal protection under that law.

Whereas, the United States Congress is currently considering United States House Resolution No. 743 which would add the state of Kentucky to the state allowed to have a divided retirement system; Therefore be it

*Resolved*, That the Louisiana Legislature does hereby memorialize the United States Congress to amend the provisions of Section 418(d)(6)(C) of Title 42 of the United States Code to allow the state of Louisiana the right to divide the retirement system or systems established by the state or any political subdivision thereof into two parts, the first part being composed of members who desire to participate jointly in both the state, statewide, or local retirement system and the federal social security system and the second part of any such divided retirement system to be composed of members who desire to participate solely in the state, statewide, or local retirement system but not in the federal social security system; be it further

*Resolved*, The members of the Louisiana Congressional delegation are hereby urged and requested to take action to include the state of Louisiana in the states permitted to have a divided retirement system, either by amending House Resolution No. 743 or other federal legislation; be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-229. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to tax credits for diesel and gasoline refined from wood bio-mass; to the Committee on Finance.

#### SENATE CONCURRENT RESOLUTION No. 145

Whereas, gasoline and diesel fuel for vehicular use are in short supply and constitute a sizable portion of domestic petroleum consumption; and

Whereas, in light of greenhouse effects produced during refining operations, all refining methods and materials should be considered by producers of gasoline and diesel fuel; and

Whereas, under current federal laws and regulations, producers of gasoline and diesel fuel refined from corn and grain are eligible to receive federal motor fuels tax credits; and

Whereas, wood bio-mass is now being used in increasing instances by producers of gasoline and diesel fuel in their refining process; and

Whereas, under current federal laws and regulations, producers of gasoline and diesel fuel refined from wood bio-mass are not eligible to receive federal motor fuels tax credits; and

Whereas, the granting of federal motor fuels tax credits for diesel and gasoline refined from wood would have a positive effect on the environment and increase the availability of fuel for vehicular use; Therefore be it

*Resolved*, That the Legislature of Louisiana hereby memorializes the Congress of the United States to support any proposed federal laws, rules or regulations that would grant federal motor fuels tax credits for diesel and gasoline refined from wood bio-mass materials; be it further

*Resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana Congressional Delegation.

POM-230. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to restoring proposed cuts to the 21st Century Community Learning Centers Program; to the Committee on Health, Education, Labor, and Pensions.

#### HOUSE RESOLUTION No. 55

Whereas, The proposed federal budget includes a \$400 million cut in the 21st Century Community Learning Centers program for after-school programs; and

Whereas, The proposed cut undermines the goals of the "No Child Left Behind" Act to help children succeed academically and enhance their reading and writing skills; and

Whereas, The proposed cut would directly affect programming for over 20,000 high-risk youth in Michigan, through an estimated \$15,688,256 loss of funding; and

Whereas, Many research studies indicate that children who consistently attend after-school programs have better peer relations, emotional adjustment, conflict resolution skills, grades, and conduct compared to those children not involved in programs; and

Whereas, Juvenile crime soars in the hours immediately after the bell rings, and after-school programs prevent juvenile delinquency and victimization of youth; and

Whereas, 21st Century Community Learning Centers actively engage parents as partners in their children's education and seek to strengthen the bonds between home and school; and

Whereas, 21st Century Community Learning Centers in Michigan are successful in reducing school absenteeism, improving reading scores, and providing a safe place for children during peak juvenile crime hours; and

Whereas, 21st Century Community Learning Centers align their curriculum with the school day curriculum through fun and experimental learning activities; and

Whereas, The state of Michigan has begun the implementation of the 21st Century Community Learning Centers and sees these centers as one of the best sustainable means to offer quality after-school programs to the greatest number of high-risk youth in the state; and

Whereas, On April 10, 2003, the Michigan House of Representatives, knowing the value of after-school programs, passed House Resolution 26, on the "Michigan After-School Initiative," to call for the creation of a task force to assess the status of after-school programming in Michigan and to develop a plan to ensure access to after-school programs for every school-age child in Michigan; and

Whereas, 21st Century Community Learning Centers promote an active level of community partnership and collaboration among providers to best serve children; and

Whereas, Polls show that 92% of Americans believe there should be organized activities for children and teens during after-school hours; Now, therefore, be it

*Resolved by the house of representatives*, That we memorialize the Congress of the United States to restore the proposed \$400 million cut to the 21st Century Community Learning Centers program; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the House of Representatives, July 1, 2003.

POM-231. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to partial birth abortions; to the Committee on Health, Education, Labor, and Pensions.

#### HOUSE CONCURRENT RESOLUTION No. 68

Whereas, partial birth abortion shall mean an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery; and

Whereas, in a partial birth abortion, the physician pulls the baby out of the womb and into the birth canal, leaving the head lodged just inside the cervix; and

Whereas, the physician then punctures the base of the skull and inserts a catheter into the wound, removing the baby's brain and causing the skull to collapse; the physician then completes the delivery of the now-dead baby; and

Whereas, although partial birth abortions are usually performed in the fifth and sixth months of gestation, the procedure has been used in the third trimester of pregnancy; and

Whereas, experts agree that with current medical technology, a normal fetus in the twenty-first week of gestation is capable of sustaining life outside the womb; and

Whereas, under both federal and most state laws, a live birth occurs when a baby is entirely expelled from the womb, shows any signs of life, and is developed enough to be sustained outside the womb with neonatal medical assistance; and

Whereas, it is estimated that three thousand to five thousand partial birth abortions are performed annually, sometimes in the seventh month or later; and

Whereas, although the procedure is sometimes performed in cases of fetal disorders or maternal distress, many partial birth abortions are performed on healthy babies of healthy mothers: Therefore be it

*Resolved*, That the Louisiana Legislature does hereby memorialize the United States Congress to vote to ban partial birth abortions; be it further

*Resolved*, That a copy of this Resolution be transmitted to the residing officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-232. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the Federal Prison Industries; to the Committee on the Judiciary.

#### HOUSE RESOLUTION No. 37

Whereas, In 1934, Federal Prison Industries (FPI) was created as a government corporation. This system operates more than 100 factories, utilizes more than 20,000 inmate workers, and compiles total sales of approximately \$500 million annually from over 150 products; and

Whereas, While the role that FPI plays in promoting the development of marketable skills among inmates has clear merits, this operation enjoys unfair advantages over private sector manufacturers. Even beyond the obvious wages and benefits advantages inmate workers offer, other factors favor FPI. This is especially true through certain governmental procurement policies, including a "mandatory source" requirement that severely limits competition; and

Whereas, Michigan is harmed significantly by the advantages FPI has over private manufacturers, especially within the furniture industry. Thousands of Michigan workers have lost their jobs in recent years, and the favorable policies for FPI are major contributing factors in these job losses; and

Whereas, In the past, legislation has been considered in Congress to address directly the issue of the preferential treatment afforded FPI in bidding for government contracts. This unfair situation needs to be corrected to preserve jobs and the restore fairness in the marketplace; now, therefore, be it

*Resolved by the house of representatives*, That we memorialize the Congress of the United States to enact legislation that would remove the unfair advantages that Federal Prison Industries has in competition for business; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-233. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to the ratification of an amendment to the Constitution to prohibit desecration of the American flag; to the Committee on the Judiciary.

#### HOUSE RESOLUTION No. 80

Whereas, Throughout our history, the American flag has held a unique place of respect and affection among our people. This symbol of our shared ideals and aspirations has taken on even greater meaning in the wake of the September 11, 2001, attacks and through our growing appreciation of the suffering of the men and women who have made immeasurable sacrifices to preserve our liberties; and

Whereas, In recent years, there has been considerable debate over the idea of extending constitutional protection to the flag. The people of our country strongly support establishing special protections for our national symbol. Extending this status to our most cherished symbol would only accord due recognition to a unique component of our national identity; and

Whereas, Debate on the issue of creating a constitutional amendment to prohibit desecration of our flag often centers on what constitutes freedom of expression and free speech. In this discussion, it is important to realize that a prohibition on flag desecration would not eliminate or restrict other avenues of expression or protest. Thoughtful citizens do not equate providing protection for the flag with the removal of freedom of speech any more than laws generally provide acceptable limits of behavior for the common good; now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the Congress of the United States to adopt and submit to the states for ratification an amendment to the United States Constitution to prohibit the desecration of the American flag; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 481. A bill to amend chapter 84 of title 5, United States Code, to provide that certain Federal annuity computations are adjusted by 1 percentage point relating to periods of receiving disability payments, and for other purposes (Rept. No. 108-108).

### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DOMENICI (for himself, Mr. HAGEL, and Mr. BINGAMAN):

S. 1432. A bill to amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mr. GREGG):

S. 1433. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for Mrs. LINCOLN):

S. 1434. A bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes; read the first time.

By Mr. SESSIONS (for himself, Mr. KENNEDY, Mr. DEWINE, Mrs. FEINSTEIN, and Mr. DURBIN):

S. 1435. A bill to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape; considered and passed.

By Mr. NELSON of Florida (for himself, Mr. GRAHAM of Florida, Mr. DASCHLE, and Mr. JOHNSON):

S. 1436. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State and local sales taxes in lieu of State and local income taxes, and for other purposes; to the Committee on Finance.

### ADDITIONAL COSPONSORS

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 788

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 788, a bill to enable the United States to maintain its leadership in aeronautics and aviation.

S. 788

At the request of Mr. BROWNBACK, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 788, *supra*.

S. 982

At the request of Mrs. BOXER, the name of the Senator from Montana

(Mr. BAUCUS) was added as a cosponsor of S. 982, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and hold Syria accountable for its role in the Middle East, and for other purposes.

S. 1273

At the request of Mr. KENNEDY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1273, a bill to provide for a study to ensure that students are not adversely affected by changes to the needs analysis tables, and to require the Secretary of Education to consult with the Advisory Committee on Student Financial Assistance regarding such changes.

S. 1331

At the request of Mr. SANTORUM, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1331, a bill to clarify the treatment of tax attributes under section 108 of the Internal Revenue Code of 1986 for taxpayers which file consolidated returns.

S. 1333

At the request of Mr. GRASSLEY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1333, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1396

At the request of Ms. SNOWE, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 1396, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 1400

At the request of Ms. SNOWE, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1400, a bill to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all compo-

nents of an integrated ocean observing system and related research, and for other purposes.

S. 1414

At the request of Mr. HATCH, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 1414, a bill to restore second amendment rights in the District of Columbia.

S. 1419

At the request of Ms. LANDRIEU, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1419, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S.J. RES. 17

At the request of Mr. DORGAN, the names of the Senator from Hawaii (Mr. INOUE), the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Washington (Ms. CANTWELL), the Senator from Florida (Mr. NELSON), the Senator from Illinois (Mr. DURBIN), the Senator from Rhode Island (Mr. REED), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Dakota (Mr. JOHNSON) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S.J. Res. 17, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. CON. RES. 40

At the request of Mrs. CLINTON, the names of the Senator from Florida (Mr. GRAHAM), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Missouri (Mr. BOND), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Utah (Mr. BENNETT), the Senator from Louisiana (Mr. BREAUX), the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. KOHL), the Senator from Kentucky (Mr. BUNNING) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 40, a concurrent resolution designating August 7, 2003, as "National Purple Heart Recognition Day".

S. RES. 153

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 153, a resolution expressing the sense of the Senate that changes to athletics policies issued under title IX of the Education Amendments of 1972 would contradict the spirit of athletic equality and the intent to prohibit sex discrimination in education programs or activities receiving Federal financial assistance.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. HAGEL, and Mr. BINGAMAN):

S. 1432. A bill to amend the Safe Drinking Water Act to establish a program to provide assistance to small communities for use in carrying out projects and activities necessary to achieve or maintain compliance with drinking water standards; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, I want to talk about two things: One is strictly domestic and another is international.

First, I am introducing a bill today in behalf of myself, Senator HAGEL, and Senator BINGAMAN.

I will start this discussion with a chart. The dark brown on this map are counties in these United States—you will note that they are predominantly in the West—with arsenic concentrations exceeding 10 parts per billion or more in the water sampling. The little bit lighter ones are counties with 5 parts per billion. The little bit lighter ones are counties with 3 parts per billion. And, the very light ones are counties with fewer than 10 parts per billion.

Arsenic is a very prevalent compound or chemical in the United States. Communities in the State of New Mexico and throughout the country are going to face, very soon, a very costly situation not of their own making. Beginning in the year 2000, Federal drinking water regulations established by the Environmental Protection Agency will require substantial reductions in the amount of arsenic present in water.

Today, the limit is 50 parts per billion. In 2006, it will become 10 parts per billion.

When I was referring a while ago to these colorations, this dark brown is parts per billion. Today the limit is 50. In 2006, it will become 10 parts per billion. Arsenic is indeed poisonous if used in large amounts. It is naturally occurring, however, in much of the ground water throughout the Nation.

That means there have been people living for as long as they have lived in areas that have naturally occurring arsenic in the ground water. Believe it or not, fellow citizens, they have been drinking that water.

What is so strange about it is that we don't have any evidence it has been killing them. We don't have any evidence it has been hurting them. But actually there are scientific tests on which the Environmental Protection Agency relied, I regret to tell you, that, in this Senator's opinion, are very meager in terms of their strength, and they predominate in foreign countries. However, the law has been interpreted to say that, in 2006, drinking water systems will be down to 10 parts per billion or they will be in violation of this Federal law.

In my home city of Albuquerque, which is shown on this second map I have put up—there is Albuquerque; you see there is the very dark brown—there are around 13 parts per billion. This illustrates the problem the new standard

will create. This bill recognizes that in some parts of the United States, and of my State, the burden will become so great that some communities just will not be able to bear it. They have to go through—at least today—a whole new cleanup system for their domestic water. Whatever they have been doing, they must do it all another way.

Although our scientists are busy at work, No. 1, trying to figure an easier way to clean it up, we are also having some of them busy at work trying to offer us more evidence that it is not dangerous to have Albuquerqueans drink the water that must be cleaned up and water in water systems in many other parts of my State and in other parts of America.

But this bill goes on to say that small communities may not have the resources to meet these standards and may need help, and it creates a grant program for the small communities to help them upgrade these systems and ensures them that not less than 20 percent of the grant moneys go to communities with fewer than 50,000 residents. And the bill authorizes appropriations of \$1.9 billion for fiscal year 2004 and for each year through 2009.

In New Mexico, the geology, the make up of the rocks and dirt, results in relatively high levels of arsenic in the groundwater. However, over time, New Mexico residents have not experienced higher levels of diseases associated with arsenic. Be that as it may, many small communities throughout New Mexico and the west will not be able to meet the financial burden. Because of this, I believe it is important to aid communities in meeting the coming standards. The financial burden facing many communities and individuals is great.

The new standards could cost New Mexico communities between \$370 to \$440 million to improve treatment systems, plus \$18 million a year in operating costs.

Albuquerque, alone, is looking at having to spend \$150 million to come into compliance. Its sister city, right across the river, Rio Rancho—our second largest city—is facing \$60 million in improvements. And many individuals in small communities throughout the West are facing increases in their water bills of \$50 to \$90 a month just to pay for the cleanup. Most people cannot afford such an increase.

This legislation will help these communities in upgrading their systems and training their people. We are forcing communities to comply with drinking water standards that many believe will not increase public health. The least we can do is help them meet the burden.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to the printed in the RECORD, as follows:

S. 1432

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Drinking Water Assistance Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) drinking water standards proposed and in effect as of the date of enactment of this Act will place a large financial burden on many public water systems, especially those public water systems in rural communities serving small populations;

(2) the limited scientific, technical, and professional resources available in small communities complicate the implementation of regulatory requirements;

(3) small communities often cannot afford to meet water quality standards because of the expenses associated with upgrading public water systems and training personnel to operate and maintain the public water systems;

(4) small communities do not have a tax base for dealing with the costs of upgrading their public water systems;

(5) small communities face high per capita costs in improving drinking water quality;

(6) small communities would greatly benefit from a grant program designed to provide funding for water quality projects;

(7) as of the date of enactment of this Act, there is no Federal program in effect that adequately meets the needs of small, primarily rural communities with respect to public water systems; and

(8) since new, more protective arsenic drinking water standards proposed by the Clinton and Bush administrations, respectively, are expected to be implemented in 2006, the grant program established by the amendment made by this Act should be implemented in a manner that ensures that the implementation of those new standards is not delayed.

#### SEC. 3. ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS.

(a) DEFINITION OF INDIAN TRIBE.—Section 1401(14) of the Safe Drinking Water Act (42 U.S.C. 300f(14)) is amended in the second sentence by striking "1452," and inserting "1452 and part G,".

(b) ESTABLISHMENT OF PROGRAM.—The Safe Drinking Water Act (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

#### "PART G—ASSISTANCE FOR SMALL PUBLIC WATER SYSTEMS

##### "SEC. 1471. DEFINITIONS.

"In this part:

"(1) ELIGIBLE ACTIVITY.—

"(A) IN GENERAL.—The term 'eligible activity' means a project or activity concerning a small public water system that is carried out by an eligible entity to comply with drinking water standards.

"(B) INCLUSIONS.—The term 'eligible activity' includes—

"(i) obtaining technical assistance; and

"(ii) training and certifying operators of small public water systems.

"(C) EXCLUSION.—The term 'eligible activity' does not include any project or activity to increase the population served by a small public water system, except to the extent that the Administrator determines such a project or activity to be necessary to—

"(i) achieve compliance with a national primary drinking water regulation; and

"(ii) provide a water supply to a population that, as of the date of enactment of this part, is not served by a safe public water system.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a small public water system that—

"(A) is located in a State or an area governed by an Indian Tribe; and

"(B)(i) if located in a State, serves a community that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State to be—

"(I) a disadvantaged community; or

"(II) a community that may become a disadvantaged community as a result of carrying out an eligible activity; or

"(ii) if located in an area governed by an Indian Tribe, serves a community that is determined by the Administrator, under affordability criteria published by the Administrator under section 1452(d)(3) and in consultation with the Secretary, to be—

"(I) a disadvantaged community; or

"(II) a community that the Administrator expects to become a disadvantaged community as a result of carrying out an eligible activity.

"(3) PROGRAM.—The term 'Program' means the small public water assistance program established under section 1472(a).

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Director of the Indian Health Service.

"(5) SMALL PUBLIC WATER SYSTEM.—The term 'small public water system' means a public water system (including a community water system and a noncommunity water system) that serves—

"(A) a community with a population of not more than 200,000 individuals; or

"(B) a public water system located in—

"(i) Bernalillo or Sandoval County, New Mexico;

"(ii) Scottsdale, Arizona;

"(iii) Mesquite or Washoe County, Nevada;

or

"(iv) El Paso County, Texas.

#### "SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this part, the Administrator shall establish a program to provide grants to eligible entities for use in carrying out projects and activities to comply with drinking water standards.

"(2) PRIORITY.—Subject to paragraph (3), the Administrator shall award grants under the Program to eligible entities based on—

"(A) first, the financial need of the community for the grant assistance, as determined by the Administrator; and

"(B) second, with respect to the community in which the eligible entity is located, the per capita cost of complying with drinking water standards, as determined by the Administrator.

"(3) SMALL COMMUNITIES.—In making grants under this section, the Administrator shall ensure that not less than 20 percent of grant funds provided for each fiscal year are used to carry out eligible activities in communities with a population of less than 50,000 individuals.

"(b) APPLICATION PROCESS.—

"(1) IN GENERAL.—An eligible entity that seeks to receive a grant under the Program shall submit to the Administrator, on such form as the Administrator shall prescribe (not to exceed 3 pages in length), an application to receive the grant.

"(2) COMPONENTS.—The application shall include—

"(A) a description of the eligible activities for which the grant is needed;

"(B) a description of the efforts made by the eligible entity, as of the date of submission of the application, to comply with drinking water standards; and

"(C) any other information required to be included by the Administrator.

"(3) REVIEW AND APPROVAL OF APPLICATIONS.—

"(A) IN GENERAL.—On receipt of an application under paragraph (1), the Administrator shall forward the application to the Council.

"(B) APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving the recommendations of the Council under subsection (e) concerning an application, after taking into consideration the recommendations, the Administrator shall—

"(i) approve the application and award a grant to the applicant; or

"(ii) disapprove the application.

"(C) RESUBMISSION.—If the Administrator disapproves an application under subparagraph (B)(ii), the Administrator shall—

"(i) inform the applicant in writing of the disapproval (including the reasons for the disapproval); and

"(ii) provide to the applicant a deadline by which the applicant may revise and resubmit the application.

"(c) COST SHARING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Federal share of the cost of carrying out an eligible activity using funds from a grant provided under the Program shall not exceed 90 percent.

"(2) WAIVER.—The Administrator may waive the requirement to pay the non-Federal share of the cost of carrying out an eligible activity using funds from a grant provided under the Program if the Administrator determines that an eligible entity is unable to pay, or would experience significant financial hardship if required to pay, the non-Federal share.

"(d) ENFORCEMENT AND IMPLEMENTATION OF STANDARDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Administrator shall not enforce any standard for drinking water under this Act (including a regulation promulgated under this Act) against an eligible entity during the period beginning on the date on which the eligible entity submits an application for a grant under the Program and ending, as applicable, on—

"(A) the deadline specified in subsection (b)(3)(C)(ii), if the application is disapproved and not resubmitted; or

"(B) the date that is 3 years after the date on which the eligible entity receives a grant under this part, if the application is approved.

"(2) ARSENIC STANDARDS.—No standard for arsenic in drinking water promulgated under this Act (including a standard in any regulation promulgated before the date of enactment of this part) shall be implemented or enforced by the Administrator in any State until the earlier of January 1, 2006 or such date as the Administrator certifies to Congress that—

"(A) the Program has been implemented in the State; and

"(B) the State has made substantial progress, as determined by the Administrator in consultation with the Governor of the State, in complying with drinking water standards under this Act.

"(e) ROLE OF COUNCIL.—The Council shall—

"(1) review applications for grants from eligible entities received by the Administrator under subsection (b);

"(2) for each application, recommend to the Administrator whether the application should be approved or disapproved; and

"(3) take into consideration priority lists developed by States for the use of drinking water treatment revolving loan funds under section 1452.

#### "SEC. 1473. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this part \$1,900,000,000 for each of fiscal years 2004 through 2009."

By Mr. LEAHY (for himself, Mr. JEFFORDS, and Mr. GREGG):

S. 1433. A bill to authorize the Secretary of the Interior to provide assistance in implementing cultural heritage, conservation, and recreational activities in the Connecticut River watershed of the States of New Hampshire and Vermont; to the Committee on Energy and Natural Resources.

Mr. LEAHY. Mr. President, I rise today to introduce the Upper Connecticut River Partnership Act that will help bring recognition to New England's largest river ecosystem and help the communities along the river protect and enhance their natural, cultural and recreational resources. I am pleased to add Senators JEFFORDS and GREGG as original cosponsors of this bill.

For years, our offices and our States have worked together to help communities on both sides of the river develop local partnerships to protect the Connecticut River valley of Vermont and New Hampshire. This valley is a scenic region of historic villages located in a working landscape of farms and forests.

Citizens on both sides of the river know just how special this region is and have worked side by side for years to protect it. The two States came together to create the Connecticut River Joint Commissions, which help coordinate the efforts of towns, watersheds and other local groups to implement the Connecticut River Corridor Management Plan. This Plan has become the blueprint for how communities along the river can work together, with the States of Vermont and New Hampshire and with the Federal Government to protect the river's resources.

The Upper Connecticut River Partnership Act would help carry out the recommendations of the Connecticut River Corridor Management Plan and help communities along the river protect their cultural, natural and recreational resources. This Act would provide the Secretary of Interior with the ability to assist the States of New Hampshire and Vermont with technical and financial aid for the Upper Connecticut River through the Connecticut River Joint Commissions. The people living in the Upper Connecticut Watershed region would be able to learn about the river and be given knowledge on how to protect it. Also, the Act would assist local community efforts to continue cultural heritage outreach and education programs while enriching the recreational activities already active in the Connecticut River Watersheds of Vermont and New Hampshire.

The bill also will require that the Secretary of Interior establish a Connecticut River Grants and Technical Assistance Program to help local community groups develop new projects and build on existing ones to enhance the river basin. Over the next few years, I hope this bill will help bring new recognition to the Connecticut River as one of our Nation's great water resources.

By Mr. NELSON of Florida (for himself, Mr. GRAHAM of Florida, Mr. DASCHLE, and Mr. JOHNSON):

S. 1436. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State and local sales taxes in lieu of State and local income taxes, and for other purposes; to the Committee on Finance.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. GRAHAM of Florida. Mr. President, when Congress enacted the Tax Reform Act of 1986, it was heralded for its simplicity, efficiency and fairness. Yet the legislation was not fair to states such as Florida that choose not to finance the government through the imposition of an income tax. Residents from these States are forced to pay a higher Federal income tax liability than comparable citizens of other States. This results from the 1986 Act's elimination of the Federal income tax deduction for State sales taxes.

Today, Senators NELSON of Florida, DASCHLE, JOHNSON and I are introducing the Sales Tax Equity act to remedy this inequity and lift our constituents from second-class status. The bill allows taxpayers to elect a deduct State and local sales taxes in lieu of a deduction for State and local income taxes. Although the election is available to residents of all States, the practical effect of the bill is to make the deduction for State taxes available to residents of States with no State income tax. Residents from these States should not be forced to pay higher Federal tax bills simply because their State government's funding does not derive from an income tax.

To avoid burdensome record-keeping requirements, the deduction for State and local sales taxes would be determined by tables produced by Treasury. Those tables will take into consideration the sales tax rates in the various States and average consumption.

The Joint Committee on Taxation estimates the cost of restoring this fairness to the citizens of non-income tax States at \$26 billion over ten years. Under most circumstances it should not be incumbent upon those of us who are trying to restore equity in our Federal tax laws to find offsets for this cost. The problem we face, however, is that last week the Office of Management and Budget announced that the deficit for this year would be 455 billion dollars—165 billion dollars greater than the previous record deficit. The fiscal hole in which we now find ourselves—primarily as a result of the fiscal mismanagement of the Bush Administration—places an extra burden on us. The responsible approach to fixing this problem, therefore, requires us to put together a proposal that will not exacerbate the deficit. Fortunately, offsets exist that will fully offset the cost of the restored sales tax deduction and improve the Nation's tax laws by making it tougher for taxpayers to avoid paying their fair share.



In his last report to the IRS Oversight Board, former Commissioner Rossotti identified corporate tax shelters as one of the top problems facing the IRS. To combat this growing problem, the bill includes measures to crack down on the proliferation of tax shelters. The purpose of these provisions is to reinforce the Treasury department's administrative enforcement regime. A key element of the Service's enforcement regime is their ability to detect potentially abusive transactions. Thus, the bill promotes disclosure of such transactions through a framework of increased penalties and limited defenses in the event of non-disclosure.

The legislation also clarifies the judicially created doctrine of economic substance and imposes a new 40 percent strict-liability penalty for those transactions that fail this new requirement. Clarification of the economic substance doctrine requires that the taxpayer establish that (1) The transaction changes in a meaningful way, apart from the Federal income tax consequences, the taxpayer's economic position, (2) the taxpayer has a substantial non-tax purpose of entering into the transaction, and (3) the transaction is a reasonable means of accomplishing such non-tax purpose.

In addition to cracking down on potentially abusive transactions, our bill will shut down known abusive transactions. Last year, at the request of the Chairman and Ranking Members of the Senate Committee on Finance, the Joint Committee on Taxation investigated Enron's tax returns. One of the areas on which the Joint Committee focused was the tax shelter arrangements, offshore entities, and special purposes entities that Enron used to reduce its tax liability. The Joint Committee issued its report on this investigation on February 13, 2003 and included recommendations for shutting down some of the tax shelters used by the company. This legislation includes those recommendations.

The legislation also eliminates incentives in our tax code that encourage individuals and corporations to renounce their U.S. citizenship to avoid paying U.S. tax. For individuals, the legislation generally subjects U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who terminate their U.S. residence to tax on the net unrealized gain in their property as if such property were sold at fair market value on the day before the expatriation or residency termination. Only a gain in excess of \$600,000, \$1.2 million for a married couple, is subject to tax.

The legislation also establishes new rules to thwart efforts by some U.S. corporations to reincorporate in a foreign country in order to avoid paying U.S. tax. These proposals are identical to legislation passed previously by the Senate.

There is one additional, and crucial, benefit of our legislation. It will not

slow down the current conference negotiations on legislations extending the child credit expansion to low-income families. As my colleagues know, legislation resolving this matter has passed both the House and Senate and the differences between the two bills must be reconciled. It is important for that legislation to get resolved as soon as possible so that the IRS has ample time to send checks out to these families this summer. Some have suggested that resolution of the sales tax issue—a matter not included in either the House or Senate bill—be attached to the child credit bill. I fear that such an attempt would further complicate resolution of that important legislation.

I hope our colleagues will look upon this legislation in the spirit with which it is offered. It is fundamentally unfair that for the past seventeen years the residents of our States have faced higher Federal income tax liabilities than their fellow citizens living in other States. We feel that we have structured our legislation in a manner that corrects this inequity without jeopardizing the tax benefits available to residents of other States. Furthermore, the bill is fiscally responsible and improves the tax system by making it more difficult for those who would use tax shelters and other devices to lower their taxes.●

#### AMENDMENTS SUBMITTED & PROPOSED

SA 1317. Mr. BYRD (for himself and Ms. STABENOW) proposed an amendment to the bill H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes.

#### TEXT OF AMENDMENTS

**SA 1317.** Mr. BYRD (for himself and Ms. STABENOW) proposed an amendment to the bill H.R. 2555, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 75, Line 6, insert the following:

#### TITLE VII—FULFILLING HOMELAND SECURITY PROMISES

##### OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY CUSTOMS AND BORDER PROTECTION

For an additional amount for "Customs and Border Protection", \$238,500,000, to remain available until December 31, 2004, of which not less than \$100,000,000 shall be for border ports-of-entry infrastructure improvements, and not less than \$138,500,000 shall be for staffing at the northern border.

##### TRANSPORTATION SECURITY ADMINISTRATION AVIATION SECURITY

For additional amounts for necessary expenses of the Transportation Security Administration related to aviation security services pursuant to Public Law 107-71 and Public Law 107-296 and for other purposes, \$100,000,000, to remain available until expended, for air cargo security.

##### TRANSPORTATION SECURITY ADMINISTRATION MARITIME AND LAND SECURITY

For additional amounts for necessary expenses of the Transportation Security Ad-

ministration related to maritime and land transportation security services pursuant to Public Law 107-71 and Public Law 107-296 and for other purposes, \$532,000,000 to remain available until December 31, 2004, of which not less than \$57,000,000 shall be available for grants to public transit agencies in urbanized areas for enhancing the security of transit facilities against chemical, biological and other terrorist threats, not less than \$460,000,000 shall be for shortfalls pursuant to Public Law 108-10, for port security grants for the purpose of implementing the provisions of the Maritime Transportation Security Act, and not less than \$15,000,000 for inter-city bus security grants for enhancing inter-city bus and facility protection against terrorists threats.

##### UNITED STATES COAST GUARD OPERATING EXPENSES

For an additional amount for "Operating Expenses", \$70,000,000, to remain available until December 31, 2004, of which not less than \$70,000,000 shall be for costs pursuant to Public Law 107-295 for implementing the Maritime Transportation Security Act including those costs associated with the review of vessel and facility security plans and the development of area security plans.

##### OFFICE FOR DOMESTIC PREPAREDNESS

For additional amounts for the "Office for Domestic Preparedness," \$729,500,000: Provided, That of the amount made available under this heading: \$250,000,000 shall be available for grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3711); \$250,000,000 shall be for discretionary grants for use in high-threat urban areas, as determined by the Secretary of Homeland Security; \$79,500,000 shall be for interoperable communications equipment; \$150,000,000, to remain available through December 31, 2004, shall be for programs authorized by section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.).

##### OFFICE OF THE UNDER SECRETARY FOR INFORMATION

##### ANALYSIS AND INFRASTRUCTURE PROTECTION

For an additional amount for the "Office of the Under Secretary for Information Analysis and Infrastructure Protection", \$80,000,000, to remain available until December 31, 2004, for chemical facility security assessments.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Monday, July 21 at 2 p.m. for a hearing titled, "Oversight Hearing on Government Sponsored Enterprises: The Risks and Benefits to Consumers."

#### PRIVILEGE OF THE FLOOR

Mr. BENNETT. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and intern be granted the privilege of the floor for the consideration of the fiscal year 2004 Homeland Security appropriations bill and any votes that may occur in relation thereto: Les Spivey, Rachelle Schroeder, Carol Cribbs, James Hayes, Josh Manley, and Elizabeth Ferriday Mansel.



The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that committee staff Alexa Sewell and Scott Nance and fellows on the staff of the Committee on Appropriations Peter Edge and Cynthia Stowe be granted the privileges of the floor during debate and rollcall votes on the fiscal year 2004 Homeland Security appropriations bill and the conference report thereon.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### TEXT OF H.R. 2658 AS PREVIOUSLY PASSED

On July 17, 2003, the Senate passed H.R. 2658, as amended, as follows:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, for military functions administered by the Department of Defense, and for other purposes, namely:

##### TITLE I

##### MILITARY PERSONNEL

##### MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$28,282,764,000.

##### MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$23,309,791,000.

##### MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$8,994,426,000.

##### MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$22,993,072,000.

##### RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for per-

sonnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,584,735,000.

##### RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,027,945,000.

##### RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$587,619,000.

##### RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,332,301,000.

##### NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$5,598,504,000.

##### NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serv-

ing on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,228,830,000.

##### TITLE II

##### OPERATION AND MAINTENANCE

##### OPERATION AND MAINTENANCE, ARMY

##### (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$11,034,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$24,922,949,000: Provided, That of the funds appropriated in this paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance.

##### OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,463,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$28,183,284,000.

##### OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$3,418,023,000.

##### OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,801,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$26,698,375,000.

##### OPERATION AND MAINTENANCE, DEFENSE-WIDE

##### (INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$16,279,006,000, of which not to exceed \$35,000,000, may be available for the CINC initiative fund; and of which not to exceed \$45,000,000, can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: Provided, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: Provided further, That \$2,700,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: Provided further, That any ceiling on the investment item unit cost of items that

may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

#### OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,964,009,000.

#### OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,172,921,000.

#### OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$173,952,000.

#### OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,179,188,000.

#### OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$4,273,131,000.

#### OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law

for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$4,418,616,000.

#### OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

##### (INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, \$10,000,000, to remain available until expended: Provided, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: Provided further, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

#### UNITED STATES COURTS OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$10,333,000 of which not to exceed \$2,500 can be used for official representation purposes.

#### ENVIRONMENTAL RESTORATION, ARMY

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$396,018,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### ENVIRONMENTAL RESTORATION, NAVY

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$256,153,000, to remain available until transferred: Provided, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### ENVIRONMENTAL RESTORATION, AIR FORCE

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$384,307,000, to remain available until transferred: Provided, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, re-

moval of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$24,081,000, to remain available until transferred: Provided, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

##### (INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$312,619,000, to remain available until transferred: Provided, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

#### OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2561 of title 10, United States Code), \$59,000,000, to remain available until September 30, 2005.

#### FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, \$450,800,000, to remain available until September 30, 2006: Provided, That of the amounts provided under this heading, \$10,000,000 shall be available only to support the dismantling and disposal of nuclear submarines, submarine reactor components, and warheads in the Russian Far East.

### TITLE III PROCUREMENT

#### AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,027,285,000, to remain available for obligation until September 30, 2006.

#### MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,444,462,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,732,004,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,419,759,000, to remain available for obligation until September 30, 2006.

#### OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; communications and electronic equipment;

other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$4,573,902,000, to remain available for obligation until September 30, 2006.

#### AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$9,017,548,000, to remain available for obligation until September 30, 2006.

#### WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$1,967,934,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$924,355,000, to remain available for obligation until September 30, 2006.

#### SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier Replacement Program (AP), \$1,186,564,000;  
NSSN, \$1,511,935,000;  
NSSN (AP), \$827,172,000;  
SSGN, \$930,700,000;  
SSGN (AP), \$236,600,000;  
CVN Refuelings (AP), \$232,832,000;

SSN Submarine Refuelings, \$450,000,000;  
SSN Submarine Refuelings (AP), \$20,351,000;  
SSBN Submarine Refuelings (AP), \$136,800,000;

DDG-51 Destroyer, \$3,218,311,000;  
LPD-17, \$1,192,034,000;  
LPD-17 (AP), \$75,000,000;  
LHD-8, \$591,306,000;  
LCAC Landing Craft Air Cushion, \$73,087,000;  
Prior year shipbuilding costs, \$635,502,000;  
Service Craft, \$15,980,000; and  
For outfitting, post delivery, conversions, and first destination transportation, \$348,449,000;

In all: \$11,682,623,000, to remain available for obligation until September 30, 2008: Provided, That additional obligations may be incurred after September 30, 2008, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: Provided further, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: Provided further, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

#### OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 7 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$4,734,808,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$1,090,399,000, to remain available for obligation until September 30, 2006.

#### AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$11,997,460,000, to remain available for obligation until September 30, 2006.

#### MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related

equipment, including spare parts and accessories therefor; ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$4,215,333,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,265,582,000, to remain available for obligation until September 30, 2006.

#### OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$11,536,097,000, to remain available for obligation until September 30, 2006.

#### PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; and the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$3,568,851,000, to remain available for obligation until September 30, 2006.

#### NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$700,000,000, to remain available for obligation until September 30, 2006: Provided, That the Chiefs of the Reserve and National Guard components shall, not later

than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

#### DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$77,516,000, to remain available until expended.

#### TITLE IV

#### RESEARCH, DEVELOPMENT, TEST AND EVALUATION

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$9,513,048,000, to remain available for obligation until September 30, 2005.

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$14,886,381,000, to remain available for obligation until September 30, 2005: Provided, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces: Provided further, That funds appropriated in this paragraph shall be available for the Cobra Judy program.

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$20,086,290,000, to remain available for obligation until September 30, 2005.

##### RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$18,774,428,000, to remain available for obligation until September 30, 2005.

##### OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$304,761,000, to remain available for obligation until September 30, 2005.

#### TITLE V

#### REVOLVING AND MANAGEMENT FUNDS

##### DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,449,007,000: Provided, That during fiscal year 2004, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 4 passenger motor vehicles for replacement only for the Defense Logistics Agency.

##### NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary

expenses to maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$344,148,000, to remain available until expended: Provided, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: Provided further, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: Provided further, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That, notwithstanding any other provision of law, \$8,500,000 of the funds available under this heading shall be available in addition to other amounts otherwise available, only to finance the cost of constructing additional sealift capacity.

#### TITLE VI

#### OTHER DEPARTMENT OF DEFENSE PROGRAMS

##### DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$15,656,913,000, of which \$14,918,791,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2005, and of which not more than \$7,420,972,000 shall be available for contracts entered into under the TRICARE program; of which \$327,826,000, to remain available for obligation until September 30, 2006, shall be for Procurement; of which \$410,296,000, to remain available for obligation until September 30, 2005, shall be for Research, development, test and evaluation.

##### CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,620,076,000, of which \$1,169,168,000 shall be for Operation and maintenance to remain available until September 30, 2005; \$79,212,000 shall be for Procurement to remain available until September 30, 2006; \$251,881,000 shall be for Research, development, test and evaluation to remain available until September 30, 2005; \$119,815,000 shall be for military construction to remain available until September 30, 2008: Provided, That, notwithstanding any other provision of law, \$10,000,000 of the funds available under this heading shall be expended only to fund Chemical Stockpile Emergency Preparedness Program evacuation route improvements in Calhoun County, Alabama.

##### DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

##### (INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title

10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$832,371,000: Provided, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: Provided further, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: Provided further, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

#### OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$162,449,000, of which \$160,049,000 shall be for Operation and maintenance, of which not to exceed \$700,000, is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes and of which \$300,000, to remain available until September 30, 2005, shall be for Research, development, test and evaluation; and of which \$2,100,000, to remain available until September 30, 2006, shall be for Procurement.

#### TITLE VII

##### RELATED AGENCIES

#### CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$226,400,000.

#### INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

##### (INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$165,390,000, of which \$26,081,000 for the Advanced Research and Development Committee shall remain available until September 30, 2005: Provided, That of the funds appropriated under this heading, \$34,100,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2006 and \$1,000,000 for Research, development, test and evaluation shall remain available until September 30, 2005: Provided further, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

#### PAYMENT TO KAHOLAWE ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, \$18,430,000, to remain available until expended.

#### NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102-183, \$8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

#### TITLE VIII

##### GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: Provided, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: Provided further, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: Provided, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

##### (TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$2,100,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: Provided, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: Provided further, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: Provided further, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: Provided further, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to June 30, 2004.

##### (TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: Provided, That transfers may be made between such funds: Provided fur-

ther, That transfers may be made between working capital funds and the "Foreign Currency Fluctuations, Defense" appropriation and the "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: Provided, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: Provided further, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: Provided further, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: Provided further, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C-130 aircraft;  
F/A-18E and F engine;  
F/A-18 aircraft;  
E-2C aircraft; and  
Virginia Class Submarine;

Provided, That the Secretary of the Navy may not enter into a multiyear contract for the procurement of more than one Virginia Class Submarine per year.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported as required by section 401(d) of title 10, United States Code: Provided, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: Provided further, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize

the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2004, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2005 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2005 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 2005.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. None of the funds appropriated in this or any other Act may be used to initiate a new installation overseas without 30-day advance notification to the Committees on Appropriations.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: Provided, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: Provided further, That this subsection applies only to active components of the Army.

SEC. 8014. (a) None of the funds appropriated by this Act may be used for converting to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by Department of Defense employees unless the conversion is based on the results of a public-private competition process that—

(1) applies the most efficient organization process except to the performance of an activity or function involving 10 or fewer employees (but prohibits any modification, reorganization, division, or other change that is done for the purpose of qualifying the activity or function for such exception);

(2) provides no advantage to an offeror for a proposal to save costs for the Department of Defense by offering employer-sponsored health insurance benefits to workers to be employed under contract for the performance of such activity or function that are in any respect less beneficial to the workers than the benefits provided for Federal employees under chapter 89 of title 5, United States Code; and

(3) requires a determination regarding whether, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of (A) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees, or (B) \$10,000,000.

(b) The Secretary of Defense may, in the Secretary's discretion, apply the tradeoff source selection public-private competition process under Office of Management and Budget Circular A-

76 to the performance of services related to the design, installation, operation, or maintenance of information technology (as defined in section 11101 of title 40, United States Code).

(c)(1) This section does not apply to a conversion of an activity or function of the Department of Defense to contractor performance if the Secretary of Defense (A) determines in writing that compliance would have a substantial adverse impact on the ability of the Department of Defense to perform its national security missions, and (B) publishes such determination in the Federal Register.

(2) This section and subsections (a), (b), and (c) of section 2461 of title 10, United States Code, do not apply with respect to the performance of a commercial or industrial type activity or function that—

(A) is on the procurement list established under section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(B) is planned to be converted to performance by—

(i) a qualified nonprofit agency for the blind or a qualified nonprofit agency for other severely handicapped (as such terms are defined in section 5 of such Act (41 U.S.C. 48b)); or

(ii) a commercial business at least 51 percent of which is owned by an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) or a Native Hawaiian Organization (as defined in section 8(a)(15) of the Small Business Act (15 U.S.C. 637(a)(15))).

(d) Nothing in this Act shall affect depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code.

(e) The conversion of any activity or function of the Department of Defense under the authority provided herein shall be credited toward any competitive or outsourcing goal, target or measurement that may be established by statute, regulation or policy and shall be deemed to be awarded under the authority of and in compliance with Public Law 98-369, Div. B, Title VII, sections 2723(a) and 2727(b) (codified at 10 U.S.C. 2304) for the competition or outsourcing of commercial activities.

#### (TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: Provided, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): Provided further, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: Provided further, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restric-

tion on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 8018. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for fiscal year 2004 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8020. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): Provided, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier



as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: Provided further, That notwithstanding 41 U.S.C. § 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. § 1544 or a small business owned and controlled by an individual or individuals defined under 25 U.S.C. 4221(9): Provided further, That businesses certified as 8(a) by the Small Business Administration pursuant to section 8(a)(15) of Public Law 85-536, as amended, shall have the same status as other program participants under section 602 of Public Law 100-656, 102 Stat. 3825 (Business Opportunity Development Reform Act of 1988) for purposes of contracting with agencies of the Department of Defense.

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 30 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. (a) Of the funds for the procurement of supplies or services appropriated by this Act and hereafter, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year and hereafter, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

SEC. 8026. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 8027. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350(j)(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: Provided, That upon

receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8028. Of the funds made available in this Act, not less than \$24,758,000 shall be available for the Civil Air Patrol Corporation: Provided, That funds identified for "Civil Air Patrol" under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8029. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: Provided, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2004 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2004, not more than 6,450 staff years of technical effort (staff years) may be funded for defense FFRDCs: Provided, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2005 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$50,000,000.

SEC. 8030. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: Provided, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: Provided further, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acqui-

sition must be made in order to acquire capability for national security purposes: Provided further, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

SEC. 8031. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8032. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: Provided, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: Provided further, That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8033. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2004. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8034. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8035. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 572(b)(5)(A) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 572(b)(5)(B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.



SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term "Indian tribe" means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than \$250,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2005 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2005 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2005 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence

Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2005: Provided, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: Provided further, That any funds appropriated or transferred to the Central Intelligence Agency for advanced research and development acquisition, for agent operations, and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2005.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading "Operation and Maintenance, Defense-Wide", not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8046. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, con-

tracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8047. (a) Except as provided in subsection (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8048. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: Provided, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8049. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

"Shipbuilding and Conversion, Navy, 2002/2006", \$55,000,000;

"Procurement of Ammunition, Army, 2003/2005", \$36,000,000;

"Other Procurement, Air Force, 2003/2005", \$5,000,000;

"Procurement, Defense-Wide, 2003/2005", \$48,000,000;

"Research and Development, Defense-Wide, 2003/2004", \$25,000,000;

"National Defense Sealift Fund", \$105,300,000.

SEC. 8050. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8051. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People's Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8052. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: Provided, That during the performance of such duty, the members of the National Guard shall be under State command and control: Provided further, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8053. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense

Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: Provided, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8054. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2003 level: Provided, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8055. (a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed.

SEC. 8056. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8057. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

#### (TRANSFER OF FUNDS)

SEC. 8058. Appropriations available in this Act under the heading "Operation and Maintenance, Defense-Wide" for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

SEC. 8059. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: Provided, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: Provided further, That this restriction shall not apply to the purchase of "commercial items", as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8060. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8061. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8062. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act or hereafter in any other Act.

SEC. 8063. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the require-

ments of this section, on a case-by-case basis, in the interest of national security.

SEC. 8064. None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: Provided, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

SEC. 8065. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

(b) COVERED ACTIVITIES.—This section applies to—

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8066. To the extent authorized by subsection VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: Provided, That the total contingent liability of the United States for guarantees issued under the authority of this section may not exceed \$15,000,000,000: Provided further, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: Provided further, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: Provided further, That amounts charged for administrative fees and deposited to the special account provided for under section 2540(c)(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8067. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under

a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8068. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8069. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading "Operation and Maintenance, Defense-Wide" may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8070. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): Provided, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: Provided further, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8071. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, may be obligated at the time the reimbursable order is accepted by the performing activity: Provided, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8072. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reim-

bursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8073. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: Provided, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: Provided further, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8074. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: Provided, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: Provided further, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8075. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8076. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50-65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8077. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the

Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) MONITORING.—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) REPORT.—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

SEC. 8078. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8079. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8080. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8081. Notwithstanding any other provision of law, funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide" for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project, the planned acquisition and transition strategy and its estimated annual and total cost, has been provided in writing to the congressional defense committees: Provided, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8082. (a) LIMITATION ON AVAILABILITY OF FUNDS FOR OFFICE OF UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.—No funds appropriated or otherwise made available by this Act for the Office of the Under Secretary of Defense for Intelligence may be obligated or expended until 30 days after the date on which the report referred to in subsection (c) is submitted to Congress.

(b) LIMITATION ON AVAILABILITY OF FUNDS FOR CLANDESTINE MILITARY ACTIVITIES.—No

funds appropriated or otherwise made available by this Act may be obligated or expended for clandestine military activities until the date on which the report referred to in subsection (c) is submitted to Congress.

(c) **REPORT.**—The report referred to in this subsection is the report required to be submitted to Congress in the classified annex to the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11).

**SEC. 8083.** During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received. Not more than \$1,000,000 of the amount so credited may be available to provide assistance to spouses and other dependents of deployed members of the Armed Forces to defray the travel expenses of such spouses and other dependents when visiting family members.

**SEC. 8084. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.**—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) **CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.**—

(1) During the current fiscal year, a financial management automated information system, a mixed information system supporting financial and non-financial systems, or a system improvement of more than \$1,000,000 may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department's Financial Management Modernization Plan. The Under Secretary of Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

(c) **CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COEN ACT.**—(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) **DEFINITIONS.**—For purposes of this section:

(1) The term "Chief Information Officer" means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term "information technology system" has the meaning given the term "information technology" in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

**SEC. 8085.** During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: Provided, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: Provided further, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

**SEC. 8086.** None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of "armor penetrator", "armor piercing (AP)", "armor piercing incendiary (API)", or "armor-piercing incendiary-tracer (API-T)", except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

**SEC. 8087.** Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

**SEC. 8088.** None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous

with another State: Provided further, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

**SEC. 8089. (a)** The Department of Defense is authorized to enter into agreements with the Department of Veterans Affairs and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

**SEC. 8090.** Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system's modernization program.

#### (INCLUDING TRANSFER OF FUNDS)

**SEC. 8091. (a)** Of the amounts appropriated in this Act under the heading, "Research, Development, Test and Evaluation, Defense-Wide", \$48,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

(b) Of the amounts appropriated in this Act under the heading, "Operation and Maintenance, Army", \$177,000,000 shall remain available until expended: Provided, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government: Provided further, That the Secretary of Defense is authorized to enter into and carry out contracts for the acquisition of real property, construction, personal services, and operations related to projects described in further detail in the Classified Annex accompanying the Department of Defense Appropriations Act, 2004, consistent with the terms and conditions set forth herein: Provided further, That contracts entered into under the authority of this section may provide for such indemnification as the Secretary determines to be necessary: Provided further, That projects authorized by this section shall comply with applicable Federal, State, and local law to the maximum extent consistent with the national security, as determined by the Secretary of Defense.

**SEC. 8092.** Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2004.

#### (INCLUDING TRANSFER OF FUNDS)

**SEC. 8093.** Of the amounts appropriated in this Act under the heading "Research, Development, Test and Evaluation, Defense-Wide", \$154,800,000 shall be made available for the Arrow missile defense program: Provided, That

of this amount, \$10,000,000 shall be available for the purpose of continuing the Arrow System Improvement Program (ASIP), and \$80,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel's defense requirements, consistent with each nation's laws, regulations and procedures: Provided further, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: Provided further, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

SEC. 8094. In addition to amounts provided in this Act, \$90,000,000 is hereby appropriated for "Aircraft Procurement, Navy": Provided, That these funds shall be available only for transfer to the Coast Guard for mission essential equipment for Coast Guard HC-130J aircraft.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8095. Of the amounts appropriated in this Act under the heading "Shipbuilding and Conversion, Navy", \$635,502,000 shall be available until September 30, 2004, to fund prior year shipbuilding cost increases: Provided, That upon enactment of this Act, the Secretary of Navy shall transfer such funds to the following appropriations in the amount specified: Provided further, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1996/04":

LPD-17 Amphibious Transport Dock Ship Program, \$95,300,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1998/04":

New SSN, \$81,060,000.

Under the heading, "Shipbuilding and Conversion, Navy, 1999/04":

DDG-51 Destroyer Program, \$44,420,000;

New SSN, \$156,978,000;

LPD-17 Amphibious Transport Dock Ship Program, \$51,100,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2000/04":

DDG-51 Destroyer Program, \$24,510,000;

LPD-17 Amphibious Transport Dock Ship Program, \$112,778,000.

Under the heading, "Shipbuilding and Conversion, Navy, 2001/04":

DDG-51 Destroyer Program, \$6,984,000;

New SSN, \$62,372,000.

SEC. 8096. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: Provided, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8097. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8098. Funds appropriated by this Act, or made available by transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004

until the enactment of the Intelligence Authorization Act for fiscal year 2004.

SEC. 8099. In addition to funds made available elsewhere in this Act \$5,500,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs, maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: Provided, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: Provided further, That up to \$2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments, and of which 2 percent shall be available to support the administration and execution of the funds: Provided further, That to the extent a federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis.

SEC. 8100. None of the funds in this Act may be used to initiate a new start program without prior notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8101. Of the funds made available in this Act, not less than \$56,400,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which \$3,800,000 shall be available from "Military Personnel, Air Force", \$35,900,000 shall be available from "Operation and Maintenance, Air Force", and \$16,700,000 shall be available from "Aircraft Procurement, Air Force": Provided, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2004: Provided further, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2005 amounts sufficient to maintain a B-52 force totaling 94 aircraft.

SEC. 8102. As an interim capability to enhance Army lethality, survivability, and mobility for light and medium forces before complete fielding of the Objective Force, the Army shall ensure that budgetary and programmatic plans will provide for no fewer than six Stryker Brigade Combat Teams to be fielded between 2003 and 2008.

SEC. 8103. Of the funds made available under the heading "Operation and Maintenance, Air Force", \$8,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

(TRANSFER OF FUNDS)

SEC. 8104. Of the amounts appropriated in Public Law 107-206 under the heading "Defense Emergency Response Fund", an amount up to the fair market value of the leasehold interest in adjacent properties necessary for the force protection requirements of Tooele Army Depot, Utah, may be made available to resolve any property disputes associated with Tooele Army Depot, Utah, and to acquire such leasehold interest as required: Provided, That none of these funds may be used to acquire fee title to the properties.

SEC. 8105. Up to \$3,000,000 of the funds appropriated under the heading "Operation and

Maintenance, Navy" in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems, electrical upgrade to support additional missions critical to base operations, and support for a range footprint expansion to further guard against encroachment.

(TRANSFER OF FUNDS)

SEC. 8106. In addition to the amounts appropriated or otherwise made available in this Act, \$24,000,000, to remain available until September 30, 2004, is hereby appropriated to the Department of Defense: Provided, That the Secretary of Defense shall make grants in the amount of \$5,000,000 to the American Red Cross for Armed Forces Emergency Services; \$10,000,000 for the Fort Benning Infantry Museum; \$2,500,000 to the National Guard Youth Foundation; \$3,000,000 to the Chicago Park District for renovation of the Broadway Armory; and \$3,500,000 to the National D-Day Museum.

SEC. 8107. None of the funds appropriated in this Act under the heading "Overseas Contingency Operations Transfer Account" may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: Provided, That the Secretary of Defense shall submit a report no later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the "Overseas Contingency Operations Transfer Fund": Provided further, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

SEC. 8108. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading "Shipbuilding and Conversion, Navy" shall be considered to be for the same purpose as any subdivision under the heading "Shipbuilding and Conversion, Navy" appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

SEC. 8109. The budget of the President for fiscal year 2005 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Account, the Operation and Maintenance accounts, and the Procurement accounts: Provided, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: Provided further, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: Provided further, That these documents shall include budget exhibits OP-5 and OP-32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Account for fiscal years 2003 and 2004.

SEC. 8110. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

SEC. 8111. Of the amounts appropriated in this Act under the headings "Research, Development, Test and Evaluation, Navy" and "Operation and Maintenance, Defense-Wide"

\$65,200,000 shall be transferred to such appropriations available to the Department of Defense as may be required to carry out the intent of Congress as expressed in the Classified Annex accompanying the Department of Defense Appropriations Act, 2004, and amounts so transferred shall be available for the same purposes and for the same time period as the appropriations to which transferred.

SEC. 8112. During the current fiscal year, section 2533a(f) of Title 10, United States Code, shall not apply to any fish, shellfish, or seafood product. This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

SEC. 8113. Notwithstanding section 2465 of title 10 U.S.C., the Secretary of the Navy may use funds appropriated in title II of this Act under the heading, "Operation and Maintenance, Navy", to liquidate the expenses incurred for private security guard services performed at the Naval Support Unit, Saratoga Springs, New York by Burns International Security Services, Albany, New York in the amount of \$29,323.35, plus accrued interest, if any.

SEC. 8114. Funds available to the Department of Defense under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" for the Missile Defense Agency may be used for the development and fielding of an initial set of missile defense capabilities.

SEC. 8115. Of the amounts provided in title II of this Act under the heading, "Operation and Maintenance, Defense-Wide", \$20,000,000 is available for the Regional Defense Counter-terrorism Fellowship Program, to fund the education and training of foreign military officers, ministry of defense civilians, and other foreign security officials, to include United States military officers and civilian officials whose participation directly contributes to the education and training of these foreign students.

SEC. 8116. Up to \$2,000,000 of the funds appropriated by this Act under the heading, "Operation and Maintenance, Army", may be made available to contract for services required to solicit non-Federal donations to support construction and operation of the United States Army Museum at Fort Belvoir, Virginia: Provided, That notwithstanding any other provision of law, the Army is authorized to receive future payments in this or the subsequent fiscal year from any non-profit organization chartered to support the United States Army Museum to reimburse amounts expended by the Army pursuant to this section: Provided further, That any reimbursements received pursuant to this section shall be merged with "Operation and Maintenance, Army" and shall be made available for the same purposes and for the same time period as that appropriation account.

SEC. 8117. DESIGNATION OF AMERICA'S NATIONAL WORLD WAR II MUSEUM. (a) FINDINGS.—Congress makes the following findings:

(1) The National D-Day Museum, operated in New Orleans, Louisiana by an educational foundation, has been established with the vision "to celebrate the American Spirit".

(2) The National D-Day Museum is the only museum in the United States that exists for the exclusive purpose of interpreting the American experience during the World War II years (1939–1945) on both the battlefield and the home front and, in doing so, covers all of the branches of the Armed Forces and the Merchant Marine.

(3) The National D-Day Museum was founded by the preeminent American historian, Stephen E. Ambrose, as a result of a conversation with President Dwight D. Eisenhower in 1963, when the President and former Supreme Commander, Allied Expeditionary Forces in Europe, credited Andrew Jackson Higgins, the chief executive officer of Higgins Industries in New Orleans, as the "man who won the war for us" because the 12,000 landing craft designed by Higgins Industries

made possible all of the amphibious invasions of World War II and carried American soldiers into every theatre of the war.

(4) The National D-Day Museum, since its grand opening on June 6, 2000, the 56th anniversary of the D-Day invasion of Normandy, has attracted nearly 1,000,000 visitors from around the world, 85 percent of whom have been Americans from across the country.

(5) American World War II veterans, called the "greatest generation" of the Nation, are dying at the rapid rate of more than 1,200 veterans each day, creating an urgent need to preserve the stories, artifacts, and heroic achievements of that generation.

(6) The United States has a need to preserve forever the knowledge and history of the Nation's most decisive achievement in the 20th century and to portray that history to citizens, visitors, and school children for centuries to come.

(7) Congress, recognizing the need to preserve this knowledge and history, appropriated funds in 1992 to authorize the design and construction of The National D-Day Museum in New Orleans to commemorate the epic 1944 Normandy invasion, and subsequently appropriated additional funds in 1998, 2000, 2001, 2002, and 2003 to help expand the exhibits in the museum to include the D-Day invasions in the Pacific Theatre of Operations and the other campaigns of World War II.

(8) The State of Louisiana and thousands of donors and foundations across the country have contributed millions of dollars to help build this national institution.

(9) The Board of Trustees of The National D-Day Museum is national in scope and diverse in its makeup.

(10) The World War II Memorial now under construction on the National Mall in Washington, the District of Columbia, will always be the memorial in our Nation where people come to remember America's sacrifices in World War II, while The National D-Day Museum will always be the museum of the American experience in the World War II years (1939–1945), where people come to learn about Americans' experiences during that critical period, as well as a place where the history of our Nation's monumental struggle against worldwide aggression by would-be oppressors is preserved so that future generations can understand the role the United States played in the preservation and advancement of democracy and freedom in the middle of the 20th century.

(11) The National D-Day Museum seeks to educate a diverse group of audiences through its collection of artifacts, photographs, letters, documents, and first-hand personal accounts of the participants in the war and on the home front during one of history's darkest hours.

(12) The National D-Day Museum is devoted to the combat experience of United States citizen soldiers in all of the theatres of World War II and to the heroic efforts of the men and women on the home front who worked tirelessly to support the troops and the war effort.

(13) The National D-Day Museum continues to add to and maintain one of the largest personal history collections in the United States of the men and women who fought in World War II and who served on the home front.

(14) No other museum describes as well the volunteer spirit that arose throughout the United States and united the country during the World War II years.

(15) The National D-Day Museum is engaged in a 250,000 square foot expansion to include the Center for the Study of the American Spirit, an advanced format theatre, and a new United States pavilion.

(16) The planned "We're All in this Together" exhibit will describe the role every State, commonwealth, and territory played in World War II, and the computer database and software of The National D-Day Museum's educational program will be made available to the teachers and school children of every State, commonwealth, and territory.

(17) The National D-Day Museum is an official Smithsonian affiliate institution with a formal agreement to borrow Smithsonian artifacts for future exhibitions.

(18) Le Memorial de Caen in Normandy, France has formally recognized The National D-Day Museum as its official partner in a Patriotic Alliance signed on October 16, 2002, by both museums.

(19) The official Battle of the Bulge museums in Luxembourg and the American Battlefield Monuments Commission are already collaborating with The National D-Day Museum on World War II exhibitions.

(20) For all of these reasons, it is appropriate to designate The National D-Day Museum as "America's National World War II Museum".

(b) PURPOSES.—The purposes of this section are, through the designation of The National D-Day Museum as "America's National World War II Museum", to express the United States Government's support for—

(1) the continuing preservation, maintenance, and interpretation of the artifacts, documents, images, and history collected by the museum;

(2) the education of the American people as to the American experience in combat and on the home front during the World War II years, including the conduct of educational outreach programs for teachers and students throughout the United States;

(3) the operation of a premier facility for the public display of artifacts, photographs, letters, documents, and personal histories from the World War II years (1939–1945);

(4) the further expansion of the current European and Pacific campaign exhibits in the museum, including the Center for the Study of the American Spirit for education; and

(5) ensuring the understanding by all future generations of the magnitude of the American contribution to the Allied victory in World War II, the sacrifices made to preserve freedom and democracy, and the benefits of peace for all future generations in the 21st century and beyond.

(c) DESIGNATION OF "AMERICA'S NATIONAL WORLD WAR II MUSEUM".—The National D-Day Museum, New Orleans, Louisiana, is designated as "America's National World War II Museum".

SEC. 8118. NATIVE AMERICAN VETERAN HOUSING LOANS. (a) Title I of Division K of the Consolidated Appropriations Resolution, 2003 (Public Law 108-7) is amended by striking out "expenses: Provided, That no new loans in excess of \$5,000,000 may be made in fiscal year 2003." from the paragraph under the heading "Native American Veteran Housing Loan Program Account" and inserting in lieu thereof "expenses".

(b) The amendment made by subsection (a) of this section is effective on the date of the enactment of Public Law 108-7, February 20, 2003.

SEC. 8119. Of the funds made available in chapter 3 of title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11), under the heading "Iraq Freedom Fund", \$3,157,000,000 are hereby rescinded.

SEC. 8120. (a) LIMITATION ON USE OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TERRORISM INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Department of Defense, whether to an element of the Defense Advanced Research Projects Agency or any other element, or to any other department, agency, or element of the Federal Government, may be obligated or expended on research and development on the Terrorism Information Awareness program.

(b) LIMITATION ON DEPLOYMENT OF TERRORISM INFORMATION AWARENESS PROGRAM.—(1) Notwithstanding any other provision of law, if and when research and development on the Terrorism Information Awareness program, or any component of such program, permits the deployment or implementation of such program or component, no department, agency, or element



of the Federal Government may deploy or implement such program or component, or transfer such program or component to another department, agency, or element of the Federal Government, until the Secretary of Defense—

(A) notifies Congress of that development, including a specific and detailed description of—  
(i) each element of such program or component intended to be deployed or implemented; and

(ii) the method and scope of the intended deployment or implementation of such program or component (including the data or information to be accessed or used); and

(B) has received specific authorization by law from Congress for the deployment or implementation of such program or component, including—

(i) a specific authorization by law for the deployment or implementation of such program or component; and

(ii) a specific appropriation by law of funds for the deployment or implementation of such program or component.

(2) The limitation in paragraph (1) shall not apply with respect to the deployment or implementation of the Terrorism Information Awareness program, or a component of such program, in support of the following:

(A) Lawful military operations of the United States conducted outside the United States.

(B) Lawful foreign intelligence activities conducted wholly against non-United States persons.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Terrorism Information Awareness program should not be used to develop technologies for use in conducting intelligence activities or law enforcement activities against United States persons without appropriate consultation with Congress or without clear adherence to principles to protect civil liberties and privacy; and

(2) the primary purpose of the Defense Advanced Research Projects Agency is to support the lawful activities of the Department of Defense and the national security programs conducted pursuant to the laws assembled for codification purposes in title 50, United States Code.

(d) DEFINITIONS.—In this section:

(1) TERRORISM INFORMATION AWARENESS PROGRAM.—The term “Terrorism Information Awareness program”—

(A) means the components of the program known either as Terrorism Information Awareness or Total Information Awareness, any related information awareness program, or any successor program under the Defense Advanced Research Projects Agency or another element of the Department of Defense; and

(B) includes a program referred to in subparagraph (1), or a component of such program, that has been transferred from the Defense Advanced Research Projects Agency or another element of the Department of Defense to any other department, agency, or element of the Federal Government.

(2) NON-UNITED STATES PERSON.—The term “non-United States person” means any person other than a United States person.

(3) UNITED STATES PERSON.—The term “United States person” has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).

SEC. 8121. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$125,000,000 to limit excessive growth in the procurement of advisory and assistance services, to be distributed as follows:

“Operation and Maintenance, Defense-Wide”, \$45,000,000;

“Research, Development, Test and Evaluation, Navy”, \$40,000,000; and

“Research, Development, Test and Evaluation, Defense-Wide”, \$40,000,000:

Provided, That these reductions shall be applied proportionally to each budget activity, activity

group and subactivity group and each program, project, and activity within each appropriation account.

SEC. 8122. None of the funds appropriated in this Act shall be used to study, demonstrate, or implement any plans privatizing, divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 8123. None of the funds provided in this Act may be used to pay any fee charged by the Department of State for the purpose of constructing new United States diplomatic facilities.

SEC. 8124. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE”, up to \$4,000,000 may be available for cost effective composite materials for manned and unmanned flight structures (PE#0602103F).

SEC. 8125. Of the total amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY”, up to \$3,000,000 may be used for the Broad Area Unmanned Responsive Resupply Operations aircraft program.

SEC. 8126. Of the total amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, NAVY” for civilian manpower and personnel management, up to \$1,500,000 may be used for Navy Pilot Human Resources Call Center, Cutler, Maine.

SEC. 8127. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$4,000,000 may be available for Navy Integrated Manufacturing Development.

SEC. 8128. Amounts appropriated by this Act may be used for the establishment and support of 12 additional Weapons of Mass Destruction Civil Support Teams, as follows:

(1) Of the amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, ARMY”, up to \$23,300,000.

(2) Of the amount appropriated by title II under the heading “OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD”, up to \$16,000,000.

(3) Of the amount appropriated by title III under the heading “OTHER PROCUREMENT, ARMY”, up to \$25,900,000.

(4) Of the amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE”, up to \$1,000,000.

SEC. 8129. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE”, up to \$2,000,000 may be available for the development of integrated systems analysis capabilities for bioterrorism response exercises.

SEC. 8130. Of the amount appropriated by title III under the heading “PROCUREMENT, MARINE CORPS”, up to \$1,500,000 may be used for the procurement of highly versatile nitrile rubber collapsible storage units.

SEC. 8131. Of the appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$3,000,000 may be available for Marine Corps Communications Systems (PE#0206313M) for Critical Infrastructure Protection.

SEC. 8132. Of the total amount appropriated by title III under the heading “OTHER PROCUREMENT, ARMY”, up to \$1,500,000 may be used for the procurement of TSC-750 computer systems.

SEC. 8133. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$1,000,000 may be available for Combat Systems Integration (PE#0603582N) for the Trouble Reports Information Data Warehouse.

SEC. 8134. Of the amount appropriated by title II of this Act under the heading “OPERATION

AND MAINTENANCE, NAVY”, up to \$2,000,000 may be available for night vision goggles in advanced helicopter training.

SEC. 8135. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE”, up to \$3,000,000 may be available for the Long Range Biometric Target Identification System.

SEC. 8136. Of the total amount appropriated by title IV under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE”, up to \$2,500,000 may be used for the study of geospatial visualization technologies.

SEC. 8137. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY”, up to \$4,000,000 may be available for High Speed Anti-Radiation Demonstration Airframe/Propulsion Section (PE#0603114N).

SEC. 8138. Of the total amount appropriated by title IV under the heading “RESEARCH AND DEVELOPMENT, DEFENSE-WIDE”, up to \$3,500,000 may be used for National Consortia on MASINT Research for program element number 0305884L.

SEC. 8139. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY”, up to \$3,500,000 may be available for the Medical Vanguard Project to expand the clinical trial of the Internet-based diabetes management system under that project.

SEC. 8140. Of the amount appropriated by title IV of this Act under the heading “RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE”, up to \$800,000 may be available for the Tulane Center for Missile Defense, Louisiana.

SEC. 8141. Of the amount appropriated by title III of this Act under the heading “DEFENSE PRODUCTION ACT PURCHASES”, up to \$3,000,000 may be available for a Flexible Aerogel Material Supplier Initiative to develop affordable methods and a domestic supplier of military and commercial aerogels.

SEC. 8142. IN RECOGNITION OF THE NATIONAL GUARD AND RESERVE'S CONTRIBUTIONS TO OUR NATIONAL SECURITY AND EXPRESSING STRONG SUPPORT FOR THE SENATE'S PREVIOUS BIPARTISAN VOTE TO PROVIDE THESE FORCES ACCESS TO TRICARE. (a) FINDINGS.—The Senate makes the following findings:

(1) Forces in the United States National Guard and Reserve have made and continue to make essential and effective contributions to Operation Iraqi Freedom and other ongoing military operations.

(2) More than 200,000 Reserve personnel from the Army, Navy, Air Force, Marine Corps, and Coast Guard are currently serving their Nation on active status.

(3) Our dependence on the National Guard and Reserve has increased dramatically over the course of the past decade. Annual duty days have grown from about 1 million in the late 1980s to more than 12 million in every year since 1996.

(4) While our dependence on the Reserves has increased in the post-Cold War era, their basic pay and benefits structure has remained largely unchanged.

(5) Offering TRICARE to reservists for an affordable monthly premium enhances our national security by improving their medical readiness when called to duty, streamlining and accelerating the mobilization process, and enhancing our military's ability to recruit and retain qualified personnel to reserve duty.

(6) The Congressional Budget Office, the official, nonpartisan scorekeeper of all congressional legislation, has estimated the cost of this proposal at just over one-tenth of one percent of the Administration's fiscal year 2004 defense budget request.

(7) On May 20, 2003, a strong majority of Senate Democrats and Republicans joined together and voted 85-10 for an amendment to the fiscal year 2004 Defense authorization bill to provide



reserve personnel and their families access to TRICARE regardless of their current deployment status.

(8) The Appropriations Committee indicated in its report accompanying the fiscal year 2004 Defense appropriations bill that it supports this proposal.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the National Guard and Reserve play a critical and increasingly demanding role in protecting our national security; and

(2) the Senate supports the Appropriations Committee position as articulated in the report accompanying the fiscal year 2004 Defense appropriations bill and affirms its support for providing Guard and Reserve personnel access to TRICARE.

SEC. 8143. (a) The Secretary of Defense—

(1) shall review—

(A) all contractual offset arrangements to which the policy established under section 2532 of title 10, United States Code, applies that are in effect on the date of the enactment of this Act;

(B) any memoranda of understanding and related agreements to which the limitation in section 2531(c) of such title applies that have been entered into with a country with respect to which such contractual offset arrangements have been entered into and are in effect on such date; and

(C) any waivers granted with respect to a foreign country under section 2534(d)(3) of title 10, United States Code, that are in effect on such date; and

(2) shall determine the effects of the use of such arrangements, memoranda of understanding, and agreements on the effectiveness of buy American requirements provided in law.

(b) The Secretary shall submit a report on the results of the review under subsection (a) to Congress not later than March 1, 2005. The report shall include a discussion of each of the following:

(1) The effects of the contractual offset arrangements on specific subsectors of the industrial base of the United States and what actions have been taken to prevent or ameliorate any serious adverse effects on such subsectors.

(2) The extent, if any, to which the contractual offset arrangements and memoranda of understanding and related agreements have provided for technology transfer that would significantly and adversely affect the defense industrial base of the United States and would result in substantial financial loss to a United States firm.

(3) The extent to which the use of such contractual offset arrangements is consistent with—

(A) the limitation in section 2531(c) of title 10, United States Code, that prohibits implementation of a memorandum of understanding and related agreements if the President, taking into consideration the results of the interagency review, determines that such memorandum of understanding or related agreement has or is likely to have a significant adverse effect on United States industry that outweighs the benefits of entering into or implementing such memorandum or agreement; and

(B) the requirements under section 2534(d) of such title that—

(i) a waiver granted under such section not impede cooperative programs entered into between the Department of Defense and a foreign country and not impede the reciprocal procurement of defense items that is entered into in accordance with section 2531 of such title; and

(ii) the country with respect to which the waiver is granted not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(c) The Secretary—

(1) shall submit to the President any recommendations regarding the use or administra-

tion of contractual offset arrangements and memoranda of understanding and related agreements referred to in subsection (a) that the Secretary considers appropriate to strengthen the administration buy American requirements in law; and

(2) may modify memoranda of understanding or related agreements entered into under section 2531 of title 10, United States Code, or take other action with regard to such memoranda or related agreements, as the Secretary considers appropriate to strengthen the administration buy American requirements in law in the case of procurements covered by such memoranda or related agreements.

SEC. 8144. It is the sense of the Senate that—

(1) any request for funds for a fiscal year for an ongoing overseas military operation, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code; and

(2) any funds provided for such fiscal year for such a military operation should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such Acts.

SEC. 8145. Of the amount appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", up to \$2,000,000 may be available for a Software Engineering Institute Information Assurance Initiative.

SEC. 8146. Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, DEFENSE-WIDE", up to \$10,000,000 may be used for civil-military programs and the Innovative Readiness Training (IRT) Program.

SEC. 8147. Of the total amount appropriated by title III under the heading "MISSILE PROCUREMENT, AIR FORCE", up to \$10,000,000 may be used for assured access to space in addition to the amount available under such heading for the Evolved Expendable Launch Vehicle.

SEC. 8148. STUDY REGARDING MAIL DELIVERY IN THE MIDDLE EAST. (a) STUDY.—The Comptroller General of the United States shall conduct a review of the delivery of mail to troops in the Middle East and the study should:

(1) Determine delivery times, reliability, and losses for mail and parcels to and from troops stationed in the Middle East.

(2) Identify and analyze mail and parcel delivery service efficiency issues during Operations Desert Shield/Desert Storm, compared to such services which occurred during Operation Iraqi Freedom.

(3) Identify cost efficiencies and benefits of alternative delivery systems or modifications to existing delivery systems to improve the delivery times of mail and parcels.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the congressional defense committees on their findings and recommendations.

SEC. 8149. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE", up to \$4,000,000 may be available for adaptive optics research.

SEC. 8150. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY", up to \$1,000,000 may be available for the completion of the Rhode Island Disaster Initiative.

SEC. 8151. Of the amount appropriated by title I of this Act for military personnel, up to \$8,000,000 may be available for the costs during fiscal year 2004 of an increase in the amount of the death gratuity payable with respect to members of the Armed Forces under section 1478 of title 10, United States Code, from \$6,000 to \$12,000.

SEC. 8152. Of the amount appropriated by title II of this Act under the heading "SHIPBUILDING AND CONVERSION, NAVY", up to \$20,000,000 may be available for DIG-51 modernization planning.

SEC. 8153. Of the total amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY", up to \$4,000,000 may be used for the Army Museum of the Southwest at Ft. Sill, Oklahoma.

SEC. 8154. No funds appropriated or otherwise made available by this Act may be obligated or expended for the purpose of privatizing, or transferring to another department or agency of the Federal Government, any prison guard function or position at the United States Disciplinary Barracks at Fort Leavenworth, Kansas, until 30 days after the date on which the Secretary of the Army submits to the congressional defense committees a plan for the implementation of the privatization or transfer of such function or position.

SEC. 8155. Of the total amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", up to \$6,000,000 may be used for the purchase of HMMWV tires.

SEC. 8156. (a) AVAILABILITY OF CERTAIN PERSONNEL AMOUNTS.—Of the amount appropriated by title I of this Act under the heading "NATIONAL GUARD PERSONNEL, ARMY", up to \$2,500,000 may be available for Lewis and Clark Bicentennial Commemoration Activities.

(b) AVAILABILITY OF CERTAIN OPERATION AND MAINTENANCE AMOUNTS.—Of the amount appropriated by title II of this Act under the heading "OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD", up to \$1,500,000 may be available for Lewis and Clark Bicentennial Commemoration Activities.

SEC. 8157. (a) LIMITATION ON USE OF FUNDS.—Notwithstanding any other provision of law, no funds appropriated or otherwise made available by this Act may be obligated or expended to decommission a Naval or Marine Corps Reserve aviation squadron until the report required by subsection (b) is submitted to the committee of Congress referred to in that subsection.

(b) REPORT ON NAVY AND MARINE CORPS TACTICAL AVIATION REQUIREMENTS.—(1) Not later than twelve months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Appropriations of the Senate a report on the requirements of the Navy and the Marine Corps for tactical aviation, including mission requirements, recapitalization requirements, and the role of Naval and Marine Corps Reserve assets in meeting such requirements.

(2) The report shall include the recommendations of the Comptroller General on an appropriate force structure for the active and reserve aviation units of the Navy and the Marine Corps, and related personnel requirements, for the 10-year period beginning on the date of the report.

SEC. 8158. Of the amount appropriated by title III of this Act under the heading "PROCUREMENT, DEFENSE-WIDE", up to \$20,000,000 may be available for procurement of secure cellular telephones for the Department of Defense and the elements of the intelligence community.

SEC. 8159. Of the amount appropriated by title III of this Act under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to \$5,000,000 may be available to support Shortstop Electronic Protection Systems (SEPS) research and development efforts.

SEC. 8160. The Secretary of the Air Force, in consultation with the Chief of Air Force Reserve, shall study the mission of the 932nd Airlift Wing, Scott Air Force Base, Illinois, and evaluate whether it would be appropriate to substitute for that mission a mixed mission of transporting patients, passengers, and cargo that would increase the airlift capability of the Air Force while continuing the use and training of aeromedical evacuation personnel. The Secretary shall submit a report on the results of the study and evaluation to the congressional defense committees not later than January 16, 2004.

SEC. 8161. Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-

WIDE", up to \$3,000,000 may be used for Project Ancile.

SEC. 8162. Of the total amount appropriated by title IV under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY", up to \$2,000,000 may be used for Knowledge Management Fusion.

SEC. 8163. Of the amount appropriated by title IV of this Act under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY", up to \$3,000,000 may be available for the Large Energy National Shock Tunnel (LENS).

SEC. 8164. In addition to amounts provided in this Act for Ultra-low Power Battlefield Sensor System, up to an additional \$7,000,000 may be used from the total amount appropriated by title IV "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE", for Ultra-low Power Battlefield Sensor System.

SEC. 8165. (a) FINDINGS.—The Senate makes the following findings:

(1) If a terrorist group were to acquire the necessary fissile material for a nuclear explosive device, it would not be difficult for the group to construct such a device, the explosion of which could kill and injure thousands, or even hundreds of thousands, of people and destroy a large area of a city.

(2) If a terrorist group were to acquire a complete nuclear weapon from a nation which has constructed nuclear weapons, it is likely that the group would be able to detonate the device with similar results.

(3) A nation supplying either complete nuclear weapons or special nuclear material to terrorists might believe that it could escape retaliation by the United States, as the United States would not be able to determine the origin of either a weapon or its fissile material.

(4) It is possible, however, to determine the country of origin of fissile material after a nuclear explosion, provided that samples of the radioactive debris from the explosion are collected promptly and analyzed in appropriate laboratories.

(5) If radioactive debris is collected soon enough after a nuclear explosion, it is also possible to determine the characteristics of the nuclear explosive device involved, which information can assist in locating and dismantling other nuclear devices that may threaten the United States.

(6) If countries that might contemplate supplying nuclear weapons or fissile material to terrorists know that their assistance can be traced, they are much less likely to allow terrorists access to either weapons or material.

(7) It is in the interest of the United States to acquire a capability to collect promptly the debris from a nuclear explosion that might occur in any part of the Nation.

(b) SENSE OF THE SENATE ON NUCLEAR DEBRIS COLLECTION AND ANALYSIS CAPABILITY.—It is the sense of the Senate that—

(1) the Secretary of Defense should develop and deploy a nuclear debris collection and analysis capability sufficient to enable characterization of any nuclear device that might be exploded in the United States;

(2) the capability should incorporate airborne debris collectors, either permanently installed on dedicated aircraft or available for immediate use on a class of aircraft, stationed so that a properly equipped and manned aircraft is available to collect debris from a nuclear explosion anywhere in the United States and transport such debris to an appropriate laboratory in a timely fashion; and

(3) to the maximum extent practicable, the capability should be compatible with collection and analysis systems used by the United States to characterize overseas nuclear explosions.

(c) REPORT.—Not later than March 31, 2004, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility of developing and deploying the capability described in subsection (b)(1).

SEC. 8166. Of the amount appropriated by title II of this Act under the heading "OPERATION

AND MAINTENANCE, ARMY" up to \$15,000,000 may be made available for upgrades of M1A1 Abrams tank transmissions.

SEC. 8167. Of the total amount appropriated by title II of this Act under the heading "OPERATIONS AND MAINTENANCE, ARMY", up to \$2,000,000 may be used to promote civil rights education and history in the Army.

SEC. 8168. REPORTS ON SAFETY ISSUES DUE TO DEFECTIVE PARTS. (a) REPORT FROM THE SECRETARY.—The Secretary shall by March 31, 2004, examine and report back to the congressional defense committees on—

(1) how to implement a system for tracking safety-critical parts so that parts discovered to be defective, including due to faulty or fraudulent work by a contractor or subcontractor, can be identified and found;

(2) appropriate standards and procedures to ensure timely notification of contracting agencies and contractors about safety issues including parts that may be defective, and whether the Government Industry Data Exchange Program should be made mandatory;

(3) efforts to find and test airplane parts that have been heat treated by companies alleged to have done so improperly; and

(4) whether contracting agencies and contractors have been notified about alleged improper heat treatment of airplane parts.

(b) REPORT FROM THE COMPTROLLER GENERAL.—The Comptroller General shall examine and report back to the congressional defense committees on—

(1) the oversight of subcontractors by prime contractors, and testing and quality assurance of the work of the subcontractors; and

(2) the oversight of prime contractors by the Department, the accountability of prime contractors for overseeing subcontractors, and the use of enforcement mechanisms by the Department.

SEC. 8169. Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress, in writing, a report on contracts for reconstruction and other services in Iraq that are funded in whole or in part with funds available to the Department of Defense. The report shall detail—

(1) the process and standards for designing and awarding such contracts, including assistance or consulting services provided by contractors in that process;

(2) the process and standards for awarding limited or sole-source contracts, including the criteria for justifying the awarding of such contracts;

(3) any policies that the Secretary has implemented or plans to implement to provide for independent oversight of the performance by a contractor of services in designing and awarding such contracts;

(4) any policies that the Secretary has implemented or plans to implement to identify, assess, and prevent any conflict of interest relating to such contracts for reconstruction;

(5) any policies that the Secretary has implemented or plans to implement to ensure public accountability of contractors and to identify any fraud, waste, or abuse relating to such contracts for reconstruction;

(6) the process and criteria used to determine the percentage of profit allowed on cost-plus-a-fixed-fee contracts for reconstruction or other services in Iraq; and

(7) a good faith estimate of the expected costs and duration of all contracts for reconstruction or other services in Iraq.

SEC. 8170. Of the amount appropriated by title III of this Act under the heading "AIRCRAFT PROCUREMENT, AIR FORCE", up to \$19,700,000 may be available for C-5 aircraft in-service modifications for the procurement of additional C-5 aircraft Avionics Modernization Program (AMP) kits.

SEC. 8171. (a) REPORT ON ESTABLISHMENT OF POLICE AND MILITARY FORCES IN IRAQ.—Not later than 180 days after the date of the enact-

ment of this Act, the Secretary of Defense shall, in coordination with the Secretary of State, submit to the appropriate committees of Congress a report on the establishment of police and military forces in all of the 18 provinces of Iraq, including—

(1) the costs incurred by the United States in establishing Iraqi police and military units;

(2) a schedule for the completion of the establishment of Iraqi police and military units;

(3) an assessment of the effect of the ongoing creation and final establishment of Iraqi police and military units on the number of United States military personnel required to be stationed in Iraq;

(4) an assessment of the effect of the establishment of an Iraqi police force on the safety of United States military personnel stationed in Iraq; and

(5) an assessment of the effectiveness of the Iraqi police force, as so established, in preventing crime and insuring the safety of the Iraq people.

(b) UPDATES.—Not later than 120 days after the date of the submittal of the report required by subsection (b), and every 120 days thereafter, the Secretary of Defense shall, in coordination with the Secretary of State, submit to the appropriate committees of Congress an update of such report.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and International Relations of the House of Representatives.

SEC. 8172. Section 8149(b) of the Department of Defense Appropriations Act, 2003 (Public Law 107-248; 116 Stat. 1572) is amended by adding at the end the following new paragraph:

"(3) This subsection shall remain in effect for fiscal year 2004."

## **TITLE IX—SETTLEMENT OF CLAIMS FOR SLAVE LABOR FOR JAPANESE COMPANIES DURING WORLD WAR II**

### **SEC. 901. PAYMENT OF COMPENSATION TO FORMER PRISONERS OF WAR FOR FORCED OR SLAVE LABOR FOR JAPANESE COMPANIES DURING WORLD WAR II.**

(a) PAYMENT OF COMPENSATION REQUIRED.—Subject to the availability of appropriations the Secretary of Defense shall pay to each surviving former prisoner of war compensation as provided in subsection (b).

(b) COMPENSATION.—The compensation to be paid under subsection (a) is as follows: In the case of a living former prisoner of war, to the living former prisoner of war in the amount of \$10,000.

(c) IDENTIFICATION OF INDIVIDUALS AS FORMER PRISONERS OF WAR.—(1) An individual seeking compensation under this section shall submit to the Secretary of Defense an application therefor containing such information as the Secretary shall require. Only one application shall be submitted with respect to each individual seeking treatment as a former prisoner of war for purposes of this section.

(2) The Secretary shall take such actions as the Secretary considers appropriate to identify and locate individuals eligible for treatment as former prisoners of war for purposes of this section.

(d) TREATMENT AS FORMER PRISONER OF WAR.—(1) Subject to paragraph (3), the Secretary of Defense shall treat an individual as a former prisoner of war if—

(A) the name of the individual appears on any official list of the Imperial Government of Japan, or of the United States Government, as having been imprisoned at any time during World War II in a camp in Japan or territories occupied by Japan where individuals were forced to provide labor; or

(B) evidence otherwise demonstrates that the individual is entitled to treatment as a former prisoner of war.

(2) Any reasonable doubt under this subsection shall be resolved in favor of the claimant.

(3) The treatment of an individual as a former prisoner of war under paragraph (1) shall be rebutted only by clear and convincing evidence.

(e) **TIMING OF PAYMENT.**—The Secretary of Defense shall pay compensation to a former prisoner of war, under subsection (a) not later than 30 days after determining that compensation is payable to or on behalf of the former prisoner of war under this section.

(f) **PRIORITY IN PAYMENTS.**—The Secretary of Defense shall complete the processing of applications under this section in a manner that provides, to the maximum extent practicable, for the payment of compensation to former prisoners of war during their natural lives, with payments prioritized based on age and health of the claimant.

(g) **FUNDING.**—(1) From funds available otherwise in this Act up to \$49,000,000 may be made available to carry out this title.

(2) The amount made available by paragraph (1) shall remain available for obligation and expenditure during the two-year period beginning on October 1, 2003.

(3) Any amounts made available by paragraph (1) that have not been obligated as of September 30, 2005, shall revert to the Treasury as of that date.

#### SEC. 903. DEFINITIONS.

In this title:

(1) **FORMER PRISONER OF WAR.**—The term “former prisoner of war” means any individual who—

(A) was a member of the Armed Forces of the United States, a civilian employee of the United States, or an employee of a contractor of the United States during World War II;

(B) served in or with the United States combat forces during World War II;

(C) was captured and held as a prisoner of war or prisoner by Japan in the course of such service; and

(D) was required by one or more Japanese companies to perform forced or slave labor during World War II.

(2) **JAPANESE COMPANY.**—The term “Japanese company” means—

(A) any business enterprise, corporation, company, association, partnership, or sole proprietorship having its principal place of business within Japan or organized or incorporated under the laws of Japan or any political subdivision thereof; and

(B) any subsidiary or affiliate of an entity in Japan, as described in subparagraph (A), if controlled in fact by the entity, whether currently incorporated or located in Japan or elsewhere.

(3) **WORLD WAR II.**—The term “World War II” means the period beginning on December 7, 1941, and ending on August 8, 1945.

This Act may be cited as the “Department of Defense Appropriations Act of 2004”.

### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Nos. 300 and 301.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the

Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

#### DEPARTMENT OF DEFENSE

Thomas W. O'Connell, of Virginia, to be an Assistant Secretary of Defense.

#### DEPARTMENT OF ENERGY

Paul Morgan Longworth, of Virginia, to be Deputy Administrator for Defense Nuclear Nonproliferation, National Nuclear Security Administration.

### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

#### PRISON RAPE ELIMINATION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1435.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1435) to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1435) was read the third time and passed, as follows:

S. 1435

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Prison Rape Elimination Act of 2003”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.
- Sec. 4. National prison rape statistics, data, and research.
- Sec. 5. Prison rape prevention and prosecution.
- Sec. 6. Grants to protect inmates and safeguard communities.
- Sec. 7. National Prison Rape Reduction Commission.
- Sec. 8. Adoption and effect of national standards.
- Sec. 9. Requirement that accreditation organizations adopt accreditation standards.
- Sec. 10. Definitions.

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) 2,100,146 persons were incarcerated in the United States at the end of 2001: 1,324,465

in Federal and State prisons and 631,240 in county and local jails. In 1999, there were more than 10,000,000 separate admissions to and discharges from prisons and jails.

(2) Insufficient research has been conducted and insufficient data reported on the extent of prison rape. However, experts have conservatively estimated that at least 13 percent of the inmates in the United States have been sexually assaulted in prison. Many inmates have suffered repeated assaults. Under this estimate, nearly 200,000 inmates now incarcerated have been or will be the victims of prison rape. The total number of inmates who have been sexually assaulted in the past 20 years likely exceeds 1,000,000.

(3) Inmates with mental illness are at increased risk of sexual victimization. America's jails and prisons house more mentally ill individuals than all of the Nation's psychiatric hospitals combined. As many as 16 percent of inmates in state prisons and jails, and 7 percent of Federal inmates, suffer from mental illness.

(4) Young first-time offenders are at increased risk of sexual victimization. Juveniles are 5 times more likely to be sexually assaulted in adult rather than juvenile facilities—often within the first 48 hours of incarceration.

(5) Most prison staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults.

(6) Prison rape often goes unreported, and inmate victims often receive inadequate treatment for the severe physical and psychological effects of sexual assault—if they receive treatment at all.

(7) HIV and AIDS are major public health problems within America's correctional facilities. In 2000, 25,088 inmates in Federal and State prisons were known to be infected with HIV/AIDS. In 2000, HIV/AIDS accounted for more than 6 percent of all deaths in Federal and State prisons. Infection rates for other sexually transmitted diseases, tuberculosis, and hepatitis B and C are also far greater for prisoners than for the American population as a whole. Prison rape undermines the public health by contributing to the spread of these diseases, and often giving a potential death sentence to its victims.

(8) Prison rape endangers the public safety by making brutalized inmates more likely to commit crimes when they are released—as 600,000 inmates are each year.

(9) The frequently interracial character of prison sexual assaults significantly exacerbates interracial tensions, both within prison and, upon release of perpetrators and victims from prison, in the community at large.

(10) Prison rape increases the level of homicides and other violence against inmates and staff, and the risk of insurrections and riots.

(11) Victims of prison rape suffer severe physical and psychological effects that hinder their ability to integrate into the community and maintain stable employment upon their release from prison. They are thus more likely to become homeless and/or require government assistance.

(12) Members of the public and government officials are largely unaware of the epidemic character of prison rape and the day-to-day horror experienced by victimized inmates.

(13) The high incidence of sexual assault within prisons involves actual and potential violations of the United States Constitution. In *Farmer v. Brennan*, 511 U.S. 825 (1994), the Supreme Court ruled that deliberate indifference to the substantial risk of sexual assault violates prisoners' rights under the Cruel and Unusual Punishments Clause of the Eighth Amendment. The Eighth Amendment rights of State and local prisoners are protected through the Due Process Clause of the Fourteenth Amendment. Pursuant to the

power of Congress under Section Five of the Fourteenth Amendment, Congress may take action to enforce those rights in States where officials have demonstrated such indifference. States that do not take basic steps to abate prison rape by adopting standards that do not generate significant additional expenditures demonstrate such indifference. Therefore, such States are not entitled to the same level of Federal benefits as other States.

(14) The high incidence of prison rape undermines the effectiveness and efficiency of United States Government expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment and homelessness. The effectiveness and efficiency of these Federally funded grant programs are compromised by the failure of State officials to adopt policies and procedure that reduce the incidence of prison rape in that the high incidence of prison rape—

(A) increases the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) increases the levels of violence, directed at inmates and at staff, within prisons;

(C) increases health care expenditures, both inside and outside of prison systems, and reduces the effectiveness of disease prevention programs by substantially increasing the incidence and spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases;

(D) increases mental health care expenditures, both inside and outside of prison systems, by substantially increasing the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates;

(E) increases the risks of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape; and

(F) increases the level of interracial tensions and strife within prisons and, upon release of perpetrators and victims, in the community at large.

(15) The high incidence of prison rape has a significant effect on interstate commerce because it increases substantially—

(A) the costs incurred by Federal, State, and local jurisdictions to administer their prison systems;

(B) the incidence and spread of HIV, AIDS, tuberculosis, hepatitis B and C, and other diseases, contributing to increased health and medical expenditures throughout the Nation;

(C) the rate of post-traumatic stress disorder, depression, suicide, and the exacerbation of existing mental illnesses among current and former inmates, contributing to increased health and medical expenditures throughout the Nation; and

(D) the risk of recidivism, civil strife, and violent crime by individuals who have been brutalized by prison rape.

### SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) establish a zero-tolerance standard for the incidence of prison rape in prisons in the United States;

(2) make the prevention of prison rape a top priority in each prison system;

(3) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape;

(4) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities;

(5) standardize the definitions used for collecting data on the incidence of prison rape;

(6) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape;

(7) protect the Eighth Amendment rights of Federal, State, and local prisoners;

(8) increase the efficiency and effectiveness of Federal expenditures through grant programs such as those dealing with health care; mental health care; disease prevention; crime prevention, investigation, and prosecution; prison construction, maintenance, and operation; race relations; poverty; unemployment; and homelessness; and

(9) reduce the costs that prison rape imposes on interstate commerce.

### SEC. 4. NATIONAL PRISON RAPE STATISTICS, DATA, AND RESEARCH.

#### (a) ANNUAL COMPREHENSIVE STATISTICAL REVIEW.—

(1) IN GENERAL.—The Bureau of Justice Statistics of the Department of Justice (in this section referred to as the "Bureau") shall carry out, for each calendar year, a comprehensive statistical review and analysis of the incidence and effects of prison rape. The statistical review and analysis shall include, but not be limited to the identification of the common characteristics of—

(A) both victims and perpetrators of prison rape; and

(B) prisons and prison systems with a high incidence of prison rape.

(2) CONSIDERATIONS.—In carrying out paragraph (1), the Bureau shall consider—

(A) how rape should be defined for the purposes of the statistical review and analysis;

(B) how the Bureau should collect information about staff-on-inmate sexual assault;

(C) how the Bureau should collect information beyond inmate self-reports of prison rape;

(D) how the Bureau should adjust the data in order to account for differences among prisons as required by subsection (c)(3);

(E) the categorization of prisons as required by subsection (c)(4); and

(F) whether a preliminary study of prison rape should be conducted to inform the methodology of the comprehensive statistical review.

(3) SOLICITATION OF VIEWS.—The Bureau of Justice Statistics shall solicit views from representatives of the following: State departments of correction; county and municipal jails; juvenile correctional facilities; former inmates; victim advocates; researchers; and other experts in the area of sexual assault.

(4) SAMPLING TECHNIQUES.—The review and analysis under paragraph (1) shall be based on a random sample, or other scientifically appropriate sample, of not less than 10 percent of all Federal, State, and county prisons, and a representative sample of municipal prisons. The selection shall include at least one prison from each State. The selection of facilities for sampling shall be made at the latest practicable date prior to conducting the surveys and shall not be disclosed to any facility or prison system official prior to the time period studied in the survey. Selection of a facility for sampling during any year shall not preclude its selection for sampling in any subsequent year.

(5) SURVEYS.—In carrying out the review and analysis under paragraph (1), the Bureau shall, in addition to such other methods as the Bureau considers appropriate, use surveys and other statistical studies of current and former inmates from a sample of Federal, State, county, and municipal prisons. The Bureau shall ensure the confidentiality of each survey participant.

(6) PARTICIPATION IN SURVEY.—Federal, State, or local officials or facility administrators that receive a request from the Bu-

reau under subsection (a)(4) or (5) will be required to participate in the national survey and provide access to any inmates under their legal custody.

#### (b) REVIEW PANEL ON PRISON RAPE.—

(1) ESTABLISHMENT.—To assist the Bureau in carrying out the review and analysis under subsection (a), there is established, within the Department of Justice, the Review Panel on Prison Rape (in this section referred to as the "Panel").

#### (2) MEMBERSHIP.—

(A) COMPOSITION.—The Panel shall be composed of 3 members, each of whom shall be appointed by the Attorney General, in consultation with the Secretary of Health and Human Services.

(B) QUALIFICATIONS.—Members of the Panel shall be selected from among individuals with knowledge or expertise in matters to be studied by the Panel.

#### (3) PUBLIC HEARINGS.—

(A) IN GENERAL.—The duty of the Panel shall be to carry out, for each calendar year, public hearings concerning the operation of the three prisons with the highest incidence of prison rape and the two prisons with the lowest incidence of prison rape in each category of facilities identified under subsection (c)(4). The Panel shall hold a separate hearing regarding the three Federal or State prisons with the highest incidence of prison rape. The purpose of these hearings shall be to collect evidence to aid in the identification of common characteristics of both victims and perpetrators of prison rape, and the identification of common characteristics of prisons and prison systems with a high incidence of prison rape, and the identification of common characteristics of prisons and prison systems that appear to have been successful in deterring prison rape.

#### (B) TESTIMONY AT HEARINGS.—

(i) PUBLIC OFFICIALS.—In carrying out the hearings required under subparagraph (A), the Panel shall request the public testimony of Federal, State, and local officials (and organizations that represent such officials), including the warden or director of each prison, who bears responsibility for the prevention, detection, and punishment of prison rape at each entity, and the head of the prison system encompassing such prison.

(ii) VICTIMS.—The Panel may request the testimony of prison rape victims, organizations representing such victims, and other appropriate individuals and organizations.

#### (C) SUBPOENAS.—

(i) ISSUANCE.—The Panel may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(ii) ENFORCEMENT.—In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

#### (c) REPORTS.—

(1) IN GENERAL.—Not later than June 30 of each year, the Attorney General shall submit a report on the activities of the Bureau and the Review Panel, with respect to prison rape, for the preceding calendar year to—

(A) Congress; and

(B) the Secretary of Health and Human Services.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) with respect to the effects of prison rape, statistical, sociological, and psychological data;

(B) with respect to the incidence of prison rape—

(i) statistical data aggregated at the Federal, State, prison system, and prison levels;

(ii) a listing of those institutions in the representative sample, separated into each category identified under subsection (c)(4)

and ranked according to the incidence of prison rape in each institution; and

(iii) an identification of those institutions in the representative sample that appear to have been successful in deterring prison rape; and

(C) a listing of any prisons in the representative sample that did not cooperate with the survey conducted pursuant to section 4.

(3) DATA ADJUSTMENTS.—In preparing the information specified in paragraph (2), the Attorney General shall use established statistical methods to adjust the data as necessary to account for differences among institutions in the representative sample, which are not related to the detection, prevention, reduction and punishment of prison rape, or which are outside the control of the of the State, prison, or prison system, in order to provide an accurate comparison among prisons. Such differences may include the mission, security level, size, and jurisdiction under which the prison operates. For each such adjustment made, the Attorney General shall identify and explain such adjustment in the report.

(4) CATEGORIZATION OF PRISONS.—The report shall divide the prisons surveyed into three categories. One category shall be composed of all Federal and State prisons. The other two categories shall be defined by the Attorney General in order to compare similar institutions.

(d) CONTRACTS AND GRANTS.—In carrying out its duties under this section, the Attorney General may—

(1) provide grants for research through the National Institute of Justice; and

(2) contract with or provide grants to any other entity the Attorney General deems appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$15,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

#### SEC. 5. PRISON RAPE PREVENTION AND PROSECUTION.

(a) INFORMATION AND ASSISTANCE.—

(1) NATIONAL CLEARINGHOUSE.—There is established within the National Institute of Corrections a national clearinghouse for the provision of information and assistance to Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(2) TRAINING AND EDUCATION.—The National Institute of Corrections shall conduct periodic training and education programs for Federal, State, and local authorities responsible for the prevention, investigation, and punishment of instances of prison rape.

(b) REPORTS.—

(1) IN GENERAL.—Not later than September 30 of each year, the National Institute of Corrections shall submit a report to Congress and the Secretary of Health and Human Services. This report shall be available to the Director of the Bureau of Justice Statistics.

(2) CONTENTS.—The report required under paragraph (1) shall summarize the activities of the Department of Justice regarding prison rape abatement for the preceding calendar year.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of fiscal years 2004 through 2010 to carry out this section.

#### SEC. 6. GRANTS TO PROTECT INMATES AND SAFEGUARD COMMUNITIES.

(a) GRANTS AUTHORIZED.—From amounts made available for grants under this section, the Attorney General shall make grants to States to assist those States in ensuring that budgetary circumstances (such as reduced State and local spending on prisons) do not

compromise efforts to protect inmates (particularly from prison rape) and to safeguard the communities to which inmates return. The purpose of grants under this section shall be to provide funds for personnel, training, technical assistance, data collection, and equipment to prevent and prosecute prisoner rape.

(b) USE OF GRANT AMOUNTS.—Amounts received by a grantee under this section may be used by the grantee, directly or through subgrants, only for one or more of the following activities:

(1) PROTECTING INMATES.—Protecting inmates by—

(A) undertaking efforts to more effectively prevent prison rape;

(B) investigating incidents of prison rape; or

(C) prosecuting incidents of prison rape.

(2) SAFEGUARDING COMMUNITIES.—Safeguarding communities by—

(A) making available, to officials of State and local governments who are considering reductions to prison budgets, training and technical assistance in successful methods for moderating the growth of prison populations without compromising public safety, including successful methods used by other jurisdictions;

(B) developing and utilizing analyses of prison populations and risk assessment instruments that will improve State and local governments' understanding of risks to the community regarding release of inmates in the prison population;

(C) preparing maps demonstrating the concentration, on a community-by-community basis, of inmates who have been released, to facilitate the efficient and effective—

(i) deployment of law enforcement resources (including probation and parole resources); and

(ii) delivery of services (such as job training and substance abuse treatment) to those released inmates;

(D) promoting collaborative efforts, among officials of State and local governments and leaders of appropriate communities, to understand and address the effects on a community of the presence of a disproportionate number of released inmates in that community; or

(E) developing policies and programs that reduce spending on prisons by effectively reducing rates of parole and probation revocation without compromising public safety.

(c) GRANT REQUIREMENTS.—

(1) PERIOD.—A grant under this section shall be made for a period of not more than 2 years.

(2) MAXIMUM.—The amount of a grant under this section may not exceed \$1,000,000.

(3) MATCHING.—The Federal share of a grant under this section may not exceed 50 percent of the total costs of the project described in the application submitted under subsection (d) for the fiscal year for which the grant was made under this section.

(d) APPLICATIONS.—

(1) IN GENERAL.—To request a grant under this section, the chief executive of a State shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

(2) CONTENTS.—Each application required by paragraph (1) shall—

(A) include the certification of the chief executive that the State receiving such grant—

(i) has adopted all national prison rape standards that, as of the date on which the application was submitted, have been promulgated under this Act; and

(ii) will consider adopting all national prison rape standards that are promulgated under this Act after such date;

(B) specify with particularity the preventive, prosecutorial, or administrative activities to be undertaken by the State with the amounts received under the grant; and

(C) in the case of an application for a grant for one or more activities specified in paragraph (2) of subsection (b)—

(i) review the extent of the budgetary circumstances affecting the State generally and describe how those circumstances relate to the State's prisons;

(ii) describe the rate of growth of the State's prison population over the preceding 10 years and explain why the State may have difficulty sustaining that rate of growth; and

(iii) explain the extent to which officials (including law enforcement officials) of State and local governments and victims of crime will be consulted regarding decisions whether, or how, to moderate the growth of the State's prison population.

(e) REPORTS BY GRANTEE.—

(1) IN GENERAL.—The Attorney General shall require each grantee to submit, not later than 90 days after the end of the period for which the grant was made under this section, a report on the activities carried out under the grant. The report shall identify and describe those activities and shall contain an evaluation of the effect of those activities on—

(A) the number of incidents of prison rape, and the grantee's response to such incidents; and

(B) the safety of the prisons, and the safety of the communities in which released inmates are present.

(2) DISSEMINATION.—The Attorney General shall ensure that each report submitted under paragraph (1) is made available under the national clearinghouse established under section 5.

(f) STATE DEFINED.—In this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for grants under this section \$40,000,000 for each of fiscal years 2004 through 2010.

(2) LIMITATION.—Of amounts made available for grants under this section, not less than 50 percent shall be available only for activities specified in paragraph (1) of subsection (b).

#### SEC. 7. NATIONAL PRISON RAPE REDUCTION COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the National Prison Rape Reduction Commission (in this section referred to as the "Commission").

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall be composed of 9 members, of whom—

(A) 3 shall be appointed by the President;

(B) 2 shall be appointed by the Speaker of the House of Representatives, unless the Speaker is of the same party as the President, in which case 1 shall be appointed by the Speaker of the House of Representatives and 1 shall be appointed by the minority leader of the House of Representatives;

(C) 1 shall be appointed by the minority leader of the House of Representatives (in addition to any appointment made under subparagraph (B));

(D) 2 shall be appointed by the majority leader of the Senate, unless the majority leader is of the same party as the President, in which case 1 shall be appointed by the majority leader of the Senate and 1 shall be appointed by the minority leader of the Senate; and

(E) 1 member appointed by the minority leader of the Senate (in addition to any appointment made under subparagraph (D)).

(2) **PERSONS ELIGIBLE.**—Each member of the Commission shall be an individual who has knowledge or expertise in matters to be studied by the Commission.

(3) **CONSULTATION REQUIRED.**—The President, the Speaker and minority leader of the House of Representatives, and the majority leader and minority leader of the Senate shall consult with one another prior to the appointment of the members of the Commission to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(4) **TERM.**—Each member shall be appointed for the life of the Commission.

(5) **TIME FOR INITIAL APPOINTMENTS.**—The appointment of the members shall be made not later than 60 days after the date of enactment of this Act.

(6) **VACANCIES.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made, and shall be made not later than 60 days after the date on which the vacancy occurred.

(c) **OPERATION.**—

(1) **CHAIRPERSON.**—Not later than 15 days after appointments of all the members are made, the President shall appoint a chairperson for the Commission from among its members.

(2) **MEETINGS.**—The Commission shall meet at the call of the chairperson. The initial meeting of the Commission shall take place not later than 30 days after the initial appointment of the members is completed.

(3) **QUORUM.**—A majority of the members of the Commission shall constitute a quorum to conduct business, but the Commission may establish a lesser quorum for conducting hearings scheduled by the Commission.

(4) **RULES.**—The Commission may establish by majority vote any other rules for the conduct of Commission business, if such rules are not inconsistent with this Act or other applicable law.

(d) **COMPREHENSIVE STUDY OF THE IMPACTS OF PRISON RAPE.**—

(1) **IN GENERAL.**—The Commission shall carry out a comprehensive legal and factual study of the penological, physical, mental, medical, social, and economic impacts of prison rape in the United States on—

(A) Federal, State, and local governments; and

(B) communities and social institutions generally, including individuals, families, and businesses within such communities and social institutions.

(2) **MATTERS INCLUDED.**—The study under paragraph (1) shall include—

(A) a review of existing Federal, State, and local government policies and practices with respect to the prevention, detection, and punishment of prison rape;

(B) an assessment of the relationship between prison rape and prison conditions, and of existing monitoring, regulatory, and enforcement practices that are intended to address any such relationship;

(C) an assessment of pathological or social causes of prison rape;

(D) an assessment of the extent to which the incidence of prison rape contributes to the spread of sexually transmitted diseases and to the transmission of HIV;

(E) an assessment of the characteristics of inmates most likely to commit prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(F) an assessment of the characteristics of inmates most likely to be victims of prison rape and the effectiveness of various types of treatment or programs to reduce such likelihood;

(G) an assessment of the impacts of prison rape on individuals, families, social institu-

tions and the economy generally, including an assessment of the extent to which the incidence of prison rape contributes to recidivism and to increased incidence of sexual assault;

(H) an examination of the feasibility and cost of conducting surveillance, undercover activities, or both, to reduce the incidence of prison rape;

(I) an assessment of the safety and security of prison facilities and the relationship of prison facility construction and design to the incidence of prison rape;

(J) an assessment of the feasibility and cost of any particular proposals for prison reform;

(K) an identification of the need for additional scientific and social science research on the prevalence of prison rape in Federal, State, and local prisons;

(L) an assessment of the general relationship between prison rape and prison violence;

(M) an assessment of the relationship between prison rape and levels of training, supervision, and discipline of prison staff; and

(N) an assessment of existing Federal and State systems for reporting incidents of prison rape, including an assessment of whether existing systems provide an adequate assurance of confidentiality, impartiality and the absence of reprisal.

(3) **REPORT.**—

(A) **DISTRIBUTION.**—Not later than 2 years after the date of the initial meeting of the Commission, the Commission shall submit a report on the study carried out under this subsection to—

(i) the President;

(ii) the Congress;

(iii) the Attorney General;

(iv) the Secretary of Health and Human Services;

(v) the Director of the Federal Bureau of Prisons;

(vi) the chief executive of each State; and

(vii) the head of the department of corrections of each State.

(B) **CONTENTS.**—The report under subparagraph (A) shall include—

(i) the findings and conclusions of the Commission;

(ii) recommended national standards for reducing prison rape;

(iii) recommended protocols for preserving evidence and treating victims of prison rape; and

(iv) a summary of the materials relied on by the Commission in the preparation of the report.

(e) **RECOMMENDATIONS.**—

(1) **IN GENERAL.**—In conjunction with the report submitted under subsection (d)(3), the Commission shall provide the Attorney General and the Secretary of Health and Human Services with recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape.

(2) **MATTERS INCLUDED.**—The information provided under paragraph (1) shall include recommended national standards relating to—

(A) the classification and assignment of prisoners, using proven standardized instruments and protocols, in a manner that limits the occurrence of prison rape;

(B) the investigation and resolution of rape complaints by responsible prison authorities, local and State police, and Federal and State prosecution authorities;

(C) the preservation of physical and testimonial evidence for use in an investigation of the circumstances relating to the rape;

(D) acute-term trauma care for rape victims, including standards relating to—

(i) the manner and extent of physical examination and treatment to be provided to any rape victim; and

(ii) the manner and extent of any psychological examination, psychiatric care, medication, and mental health counseling to be provided to any rape victim;

(E) referrals for long-term continuity of care for rape victims;

(F) educational and medical testing measures for reducing the incidence of HIV transmission due to prison rape;

(G) post-rape prophylactic medical measures for reducing the incidence of transmission of sexual diseases;

(H) the training of correctional staff sufficient to ensure that they understand and appreciate the significance of prison rape and the necessity of its eradication;

(I) the timely and comprehensive investigation of staff sexual misconduct involving rape or other sexual assault on inmates;

(J) ensuring the confidentiality of prison rape complaints and protecting inmates who make complaints of prison rape;

(K) creating a system for reporting incidents of prison rape that will ensure the confidentiality of prison rape complaints, protect inmates who make prison rape complaints from retaliation, and assure the impartial resolution of prison rape complaints;

(L) data collection and reporting of—

(i) prison rape;

(ii) prison staff sexual misconduct; and

(iii) the resolution of prison rape complaints by prison officials and Federal, State, and local investigation and prosecution authorities; and

(M) such other matters as may reasonably be related to the detection, prevention, reduction, and punishment of prison rape.

(3) **LIMITATION.**—The Commission shall not propose a recommended standard that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities.

(f) **CONSULTATION WITH ACCREDITATION ORGANIZATIONS.**—In developing recommended national standards for enhancing the detection, prevention, reduction, and punishment of prison rape, the Commission shall consider any standards that have already been developed, or are being developed simultaneously to the deliberations of the Commission. The Commission shall consult with accreditation organizations responsible for the accreditation of Federal, State, local or private prisons, that have developed or are currently developing standards related to prison rape. The Commission will also consult with national associations representing the corrections profession that have developed or are currently developing standards related to prison rape.

(g) **HEARINGS.**—

(1) **IN GENERAL.**—The Commission shall hold public hearings. The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties under this section.

(2) **WITNESS EXPENSES.**—Witnesses requested to appear before the Commission shall be paid the same fees as are paid to witnesses under section 1821 of title 28, United States Code. The per diem and mileage allowances for witnesses shall be paid from funds appropriated to the Commission.

(h) **INFORMATION FROM FEDERAL OR STATE AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under this section. The Commission may request the head of any State or local department or agency to furnish such information to the Commission.

(i) **PERSONNEL MATTERS.**—

(1) **TRAVEL EXPENSES.**—The members of the Commission shall be allowed travel expenses,



including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Commission.

(2) **DETAIL OF FEDERAL EMPLOYEES.**—With the affirmative vote of  $\frac{2}{3}$  of the Commission, any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

(3) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—Upon the request of the Commission, the Attorney General shall provide reasonable and appropriate office space, supplies, and administrative assistance.

(j) **CONTRACTS FOR RESEARCH.**—

(1) **NATIONAL INSTITUTE OF JUSTICE.**—With a  $\frac{2}{3}$  affirmative vote, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out its duties under this Act. The National Institute of Justice shall contract with the researchers and experts selected by the Commission to provide funding in exchange for their services.

(2) **OTHER ORGANIZATIONS.**—Nothing in this subsection shall be construed to limit the ability of the Commission to enter into contracts with other entities or organizations for research necessary to carry out the duties of the Commission under this section.

(k) **SUBPOENAS.**—

(1) **ISSUANCE.**—The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter.

(2) **ENFORCEMENT.**—In the case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

(3) **CONFIDENTIALITY OF DOCUMENTARY EVIDENCE.**—Documents provided to the Commission pursuant to a subpoena issued under this subsection shall not be released publicly without the affirmative vote of  $\frac{2}{3}$  of the Commission.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(m) **TERMINATION.**—The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the reports required by this section.

(n) **EXEMPTION.**—The Commission shall be exempt from the Federal Advisory Committee Act.

## SEC. 8. ADOPTION AND EFFECT OF NATIONAL STANDARDS.

(a) **PUBLICATION OF PROPOSED STANDARDS.**—

(1) **FINAL RULE.**—Not later than 1 year after receiving the report specified in section 7(d)(3), the Attorney General shall publish a final rule adopting national standards for the detection, prevention, reduction, and punishment of prison rape.

(2) **INDEPENDENT JUDGMENT.**—The standards referred to in paragraph (1) shall be based upon the independent judgment of the Attorney General, after giving due consideration to the recommended national standards provided by the Commission under section 7(e), and being informed by such data, opinions, and proposals that the Attorney General determines to be appropriate to consider.

(3) **LIMITATION.**—The Attorney General shall not establish a national standard under this section that would impose substantial additional costs compared to the costs presently expended by Federal, State, and local prison authorities. The Attorney General may, however, provide a list of improve-

ments for consideration by correctional facilities.

(4) **TRANSMISSION TO STATES.**—Within 90 days of publishing the final rule under paragraph (1), the Attorney General shall transmit the national standards adopted under such paragraph to the chief executive of each State, the head of the department of corrections of each State, and to the appropriate authorities in those units of local government who oversee operation in one or more prisons.

(b) **APPLICABILITY TO FEDERAL BUREAU OF PRISONS.**—The national standards referred to in subsection (a) shall apply to the Federal Bureau of Prisons immediately upon adoption of the final rule under subsection (a)(4).

(c) **ELIGIBILITY FOR FEDERAL FUNDS.**—

(1) **COVERED PROGRAMS.**—

(A) **IN GENERAL.**—For purposes of this subsection, a grant program is covered by this subsection if, and only if—

(i) the program is carried out by or under the authority of the Attorney General; and

(ii) the program may provide amounts to States for prison purposes.

(B) **LIST.**—For each fiscal year, the Attorney General shall prepare a list identifying each program that meets the criteria of subparagraph (A) and provide that list to each State.

(2) **ADOPTION OF NATIONAL STANDARDS.**—For each fiscal year, any amount that a State would otherwise receive for prison purposes for that fiscal year under a grant program covered by this subsection shall be reduced by 5 percent, unless the chief executive of the State submits to the Attorney General—

(A) a certification that the State has adopted, and is in full compliance with, the national standards described in section 8(a); or

(B) an assurance that not less than 5 percent of such amount shall be used only for the purpose of enabling the State to adopt, and achieve full compliance with, those national standards, so as to ensure that a certification under subparagraph (A) may be submitted in future years.

(3) **REPORT ON NONCOMPLIANCE.**—Not later than September 30 of each year, the Attorney General shall publish a report listing each grantee that is not in compliance with the national standards adopted pursuant to section 8(a).

(4) **COOPERATION WITH SURVEY.**—For each fiscal year, any amount that a State receives for that fiscal year under a grant program covered by this subsection shall not be used for prison purposes (and shall be returned to the grant program if no other authorized use is available), unless the chief executive of the State submits to the Attorney General a certification that neither the State, nor any political subdivision or unit of local government within the State, is listed in a report issued by the Attorney General pursuant to section 4(c)(2)(C).

(5) **REDISTRIBUTION OF AMOUNTS.**—Amounts under a grant program not granted by reason of a reduction under paragraph (2), or returned by reason of the prohibition in paragraph (4), shall be granted to one or more entities not subject to such reduction or such prohibition, subject to the other laws governing that program.

(6) **IMPLEMENTATION.**—The Attorney General shall establish procedures to implement this subsection, including procedures for effectively applying this subsection to discretionary grant programs.

(7) **EFFECTIVE DATE.**—

(A) **REQUIREMENT OF ADOPTION OF STANDARDS.**—The first grants to which paragraph (2) applies are grants for the second fiscal year beginning after the date on which the national standards under section 8(a) are finalized.

(B) **REQUIREMENT FOR COOPERATION.**—The first grants to which paragraph (4) applies are grants for the fiscal year beginning after the date of the enactment of this Act.

## SEC. 9. REQUIREMENT THAT ACCREDITATION ORGANIZATIONS ADOPT ACCREDITATION STANDARDS.

(a) **ELIGIBILITY FOR FEDERAL GRANTS.**—Notwithstanding any other provision of law, an organization responsible for the accreditation of Federal, State, local, or private prisons, jails, or other penal facilities may not receive any new Federal grants during any period in which such organization fails to meet any of the requirements of subsection (b).

(b) **REQUIREMENTS.**—To be eligible to receive Federal grants, an accreditation organization referred to in subsection (a) must meet the following requirements:

(1) At all times after 90 days after the date of enactment of this Act, the organization shall have in effect, for each facility that it is responsible for accrediting, accreditation standards for the detection, prevention, reduction, and punishment of prison rape.

(2) At all times after 1 year after the date of the adoption of the final rule under section 8(a)(4), the organization shall, in addition to any other such standards that it may promulgate relevant to the detection, prevention, reduction, and punishment of prison rape, adopt accreditation standards consistent with the national standards adopted pursuant to such final rule.

## SEC. 10. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) **CARNAL KNOWLEDGE.**—The term “carnal knowledge” means contact between the penis and the vulva or the penis and the anus, including penetration of any sort, however slight.

(2) **INMATE.**—The term “inmate” means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.

(3) **JAIL.**—The term “jail” means a confinement facility of a Federal, State, or local law enforcement agency to hold—

(A) persons pending adjudication of criminal charges; or

(B) persons committed to confinement after adjudication of criminal charges for sentences of 1 year or less.

(4) **HIV.**—The term “HIV” means the human immunodeficiency virus.

(5) **ORAL SODOMY.**—The term “oral sodomy” means contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.

(6) **POLICE LOCKUP.**—The term “police lockup” means a temporary holding facility of a Federal, State, or local law enforcement agency to hold—

(A) inmates pending bail or transport to jail;

(B) inebriates until ready for release; or

(C) juveniles pending parental custody or shelter placement.

(7) **PRISON.**—The term “prison” means any confinement facility of a Federal, State, or local government, whether administered by such government or by a private organization on behalf of such government, and includes—

(A) any local jail or police lockup; and

(B) any juvenile facility used for the custody or care of juvenile inmates.

(8) **PRISON RAPE.**—The term “prison rape” includes the rape of an inmate in the actual or constructive control of prison officials.

(9) **RAPE.**—The term “rape” means—

(A) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person, forcibly or against that person's will;

(B) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person not forcibly or against the person's will, where the victim is incapable of giving consent because of his or her youth or his or her temporary or permanent mental or physical incapacity; or

(C) the carnal knowledge, oral sodomy, sexual assault with an object, or sexual fondling of a person achieved through the exploitation of the fear or threat of physical violence or bodily injury.

(10) **SEXUAL ASSAULT WITH AN OBJECT.**—The term "sexual assault with an object" means the use of any hand, finger, object, or other instrument to penetrate, however slightly, the genital or anal opening of the body of another person.

(11) **SEXUAL FONDLING.**—The term "sexual fondling" means the touching of the private body parts of another person (including the genitalia, anus, groin, breast, inner thigh, or buttocks) for the purpose of sexual gratification.

(12) **EXCLUSIONS.**—The terms and conditions described in paragraphs (9) and (10) shall not apply to—

(A) custodial or medical personnel gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating prison rape;

(B) the use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to prison rape; or

(C) the use of a health care provider's hands or fingers and the use of instruments to perform body cavity searches in order to maintain security and safety within the prison or detention facility, provided that the search is conducted in a manner consistent with constitutional requirements.

#### MEASURE READ THE FIRST TIME—S. 1434

Mr. FRIST. Mr. President, I understand that S. 1434, introduced by Senator LINCOLN earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1434) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes.

Mr. FRIST. Mr. President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

#### ORDERS FOR TUESDAY, JULY 22, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. Tuesday, July 22. I further ask that following the prayer and the pledge, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11 a.m., with the time equally divided between the two leaders or their designees; provided that at 11 a.m. the Senate resume consideration of Calendar No. 192, H.R. 2555, the Department of Homeland Security appropriations bill.

I further ask consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, tomorrow the Senate will be in a period of morning business until 11 a.m.

Following morning business, the Senate will resume consideration of H.R. 2555, the Department of Homeland Security appropriations bill. The chairman and ranking member made their opening statements on the bill and one

amendment was offered during today's session.

Tomorrow, we will continue the amendment process. Any Senators who wish to offer an amendment are encouraged to contact the two managers. Rollcall votes will occur tomorrow and Members will be notified as to when the first vote is scheduled.

It is my intention to complete action on this vital appropriations bill early this week. Upon completion of the Homeland Security bill, the Senate will take up other appropriations bills as they become available. I also inform my colleagues that rollcall votes are possible each day this week.

In addition, as I mentioned in opening this morning, the plan for next week is to take up, once again, the Energy bill. I expect to complete that bill before our recess. We will be spending all of next week on the Energy bill.

#### RECESS UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate recess under the previous order.

There being no objection, the Senate, at 4:22 p.m. recessed until Tuesday, July 22, 2003, at 9:45 a.m.

#### CONFIRMATIONS

Executive nominations confirmed by the Senate July 21, 2003:

##### DEPARTMENT OF DEFENSE

THOMAS W. O'CONNELL, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE.

##### DEPARTMENT OF ENERGY

PAUL MORGAN LONGSWORTH, OF VIRGINIA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE NUCLEAR NON-PROLIFERATION, NATIONAL NUCLEAR SECURITY ADMINISTRATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.